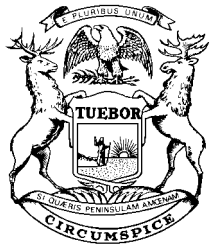
FIREARMS LAWS OF MICHIGAN



Compiled by the *Legislative Service Bureau*
Pursuant to Act 381 of the Public Acts of 2000

July 1, 2001

PREFACE

This publication, ***Firearms Laws of Michigan***, has been prepared by the Legislative Service Bureau pursuant to Act 381 of 2000, which requires the Bureau to "compile the firearms laws of this state, including laws that apply to carrying a concealed pistol ... " MCL 28.425a(9). The firearms laws compiled herein are reprinted from the text of the *Michigan Compiled Laws*, supplemented through the 2000 Regular Session of the Michigan Legislature. Materials in boldface type, particularly catchlines and annotations to the statutes, are not part of the statutes as enacted by the Legislature.

In addition to state statutes concerning firearms, this publication includes selected Michigan Attorney General Opinions that interpret various firearms laws. Also included is a listing of selected state administrative rules that regulate the use of firearms. These rules may be searched and accessed at the following web site: **www.state.mi.us/orr**. Finally, recent Michigan Supreme Court Administrative Orders concerning security in court facilities are set forth herein.

Frequently Asked Questions (FAQs) about firearms, together with answers prepared by the Michigan Department of State Police, may be viewed at, and downloaded from, the State Police web site: **http://www.msp.state.mi.us/reports/ccw/ccwques_.htm**.

Federal firearms laws (Gun Control Act of 1968, "Brady Law," Arms Export Control Act, National Firearms Act, etc.), together with related regulations, are beyond the scope of this publication. Interested persons may access these materials from a number of sources, including the federal Bureau of Alcohol, Tobacco and Firearms (U.S. Department of Treasury) web site: **www.atf.treas.gov**.

This publication, ***Firearms Laws of Michigan***, is available in PDF format at the Michigan Legislature's web site: **www.michiganlegislature.org**.

Legislative Service Bureau
State of Michigan
Lansing, Michigan

July 1, 2001

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CONSTITUTION OF THE UNITED STATES (EXCERPT)

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

AMENDMENT II.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

CONSTITUTION OF MICHIGAN OF 1963 (EXCERPT)

PREAMBLE

Preamble. We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

§ 6 Bearing of arms.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

History: Const. 1963, Art. I, § 6, Eff. Jan. 1, 1964.

Former Constitution: See Const. 1908, Art. II, § 5.

PURCHASE OF RIFLES AND SHOTGUNS
Act 207 of 1969

AN ACT to permit residents to purchase rifles and shotguns in contiguous states and to provide for reciprocity.

History: 1969, Act 207, Imd. Eff. Aug. 6, 1969.

The People of the State of Michigan enact:

3.111 Rifles and shotguns; purchases by residents.

Sec. 1. Residents of this state may purchase rifles and shotguns in any state contiguous thereto if they conform to the federal gun control act of 1968 and the regulations issued thereunder, as administered by the secretary of the treasury and the laws of the state where the purchase is made.

History: 1969, Act 207, Imd. Eff. Aug. 6, 1969.

3.112 Rifles and shotguns; purchases by nonresidents.

Sec. 2. Residents of a contiguous state may purchase rifles and shotguns in this state if they conform to the federal gun control act of 1968 and the regulations issued thereunder as administered by the secretary of the treasury and the laws of the state wherein the purchaser resides.

History: 1969, Act 207, Imd. Eff. Aug. 6, 1969.

REVISED STATUTES (EXCERPT)
R.S. of 1846

AN ACT for revising and consolidating the general statutes of the State of Michigan.

Whereas, it is expedient that the general statutes of this state should be consolidated, revised and amended, and arranged in appropriate titles, chapters and sections, and that omissions should be supplied: Therefore,

History: R.S. 1846, Ch. 1.

Be it enacted by the Senate and House of Representatives of the State of Michigan:

In the manner following, that is to say:—

CHAPTER 1.

OF THE STATUTES.

8.3t "Firearm" defined.

Sec. 3t. The word "firearm", except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air.

History: Add. 1959, Act 189, Imd. Eff. July 22, 1959.

EMERGENCY POWERS OF GOVERNOR (EXCERPT)
Act 302 of 1945

AN ACT authorizing the governor to proclaim a state of emergency, and to prescribe the powers and duties of the governor with respect thereto; and to prescribe penalties.

History: 1945, Act 302, Imd. Eff. May 25, 1945.

The People of the State of Michigan enact:

10.31 Proclamation of state of emergency; orders, rules.

Sec. 1. During times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state, or reasonable apprehension of immediate danger thereof, when public safety is imperiled, either upon application of the mayor of a city, sheriff of a county, the commissioner of the Michigan state police, or upon his own volition, the governor may proclaim a state of emergency and designate the area involved. Following such proclamation or declaration, the governor may promulgate such reasonable orders, rules and regulations as he deems necessary to protect life and property, or to bring the emergency situation within the affected area under control. Without limiting the scope of the same, said orders, rules and regulations may provide for the control of traffic, including public and private transportation, within the area or any section thereof; designation of specific zones within the area in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated; control of places of amusement and assembly, and of persons on public streets and thoroughfares; establishment of a curfew; control of the sale, transportation and use of alcoholic beverages and liquors; control of the possession, sale, carrying and use of firearms, other dangerous weapons, and ammunition; and control of the storage, use, and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety. Such orders, rules and regulations shall be effective from the date and in the manner prescribed in such orders, rules and regulations and shall be made public as provided therein. Such orders, rules and regulations may be amended, modified, or rescinded, in like manner, from time to time by the governor during the pendency of the emergency, but shall cease to be in effect upon declaration by the governor that the emergency no longer exists.

History: 1945, Act 302, Imd. Eff. May 25, 1945;—CL 1948, 10.31.

MICHIGAN STATE POLICE (EXCERPTS)
Act 59 of 1935

AN ACT to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—Am. 1939, Act 152, Eff. Sept. 29, 1939.

The People of the State of Michigan enact:

28.6c Limited arrest powers for certain security personnel; authorization; exercise; rescission; firearms; exclusion of security personnel from pension, accident, and disability plan.

Sec. 6c. (1) The director may authorize, in writing, on forms prescribed by him, limited arrest powers for security personnel employed by the state for the protection of state owned or leased, property or facilities, in the city of Lansing, and in Windsor township of Eaton county. Limited arrest authority may be exercised only when the security employee is on a tour of duty as prescribed by the director upon state owned or leased property and the person is identified by a uniform as a state security employee. Limited arrest power is automatically rescinded upon termination of employment with the state. The director may authorize security employees to carry a firearm while on duty.

(2) A security employee granted limited arrest authority by this section shall not be entitled by reason of employment to become a member of the state police pension, accident, and disability plan established by Act No. 251 of the Public Acts of 1935, as amended, being sections 28.101 to 28.110 of the Michigan Compiled Laws, or other similar departmental program.

History: Add. 1976, Act 65, Imd. Eff. Mar. 31, 1976.

28.6d Motor carrier enforcement; appointment of officers with limited arrest powers; firearms; circumstances permitting arrest without warrant; officer not entitled to membership in state police pension, accident, and disability plan or similar program.

Sec. 6d. (1) The director may appoint officers with limited arrest powers for motor carrier enforcement. Such officers shall be officers of the motor carrier enforcement division of the department and shall have all powers conferred upon peace officers for the purpose of enforcing the general laws of this state as they pertain to commercial vehicles. The director may authorize officers of the motor carrier enforcement division to carry a firearm.

(2) In addition to the limited arrest authority granted in subsection (1), an officer of the motor carrier enforcement division, while on duty, may arrest a person without a warrant, if 1 or more of the following circumstances exist:

(a) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, against the officer or against another person in the presence of the officer.

(b) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person committed it.

(c) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source, that a peace officer holds a warrant for the person's arrest.

(d) The person commits a civil infraction or misdemeanor in violation of 1 or more of the following sections of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949:

(*i*) Section 625 or 625b, being sections 257.625 and 257.625b of the Michigan Compiled Laws.

(*ii*) Sections 716 to 726, being sections 257.716 to 257.726 of the Michigan Compiled Laws.

(e) The person commits a misdemeanor or felony in violation of chapter LVI of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.377 to 750.394 of the Michigan Compiled Laws.

(3) An officer appointed by authority of this section shall not be entitled by reason of employment to become a member of the state police pension, accident, and disability plan established by Act No. 251 of the Public Acts of 1935, being sections 28.101 to 28.110 of the Michigan Compiled Laws, or other similar department program.

History: Add. 1982, Act 531, Imd. Eff. Dec. 31, 1982.

28.8 Officers; grades; powers and duties; transportation of officers and civilian employees.

Sec. 8. The grades and duties of the officers of the department shall be colonel, lieutenant colonel, major, captain, lieutenant, sergeant, trooper, and policewoman. The officers shall be authorized to carry arms either openly or concealed. Every member of the department shall be subject to orders at any time, the officers shall at all times have the authority to apprehend criminals and preserve law and order. Officers and civilian employees of the department when traveling on duty shall be entitled to transportation upon any railroad, passenger steamboat line, airline, or passenger bus line, upon presentation of a requisition for the transportation signed by the director and the carriers shall be entitled to compensation for transportation furnished out of moneys appropriated for the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.8;—Am. 1976, Act 7, Imd. Eff. Feb. 11, 1976.

28.16 Firearms safety program; public service announcements; "weapon free school zones" defined; availability of program and public service announcements.

Sec. 16. (1) The department shall establish and maintain a firearms safety program to educate children about the dangerous nature and safe handling of firearms. The department shall make the program available to local school districts.

(2) The department shall produce or arrange for the production of public service announcements to educate the public about the need to keep firearms and other weapons securely stored so that they are not accessible to children and the need to operate or use firearms or other weapons in a safe and lawful manner.

(3) The department shall produce or arrange for the production of public service announcements to educate the public about weapon free school zones. As used in this subsection, "weapon free school zone" means that term as defined in section 237a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.237a of the Michigan Compiled Laws.

(4) The department shall make the public service announcements described in subsections (2) and (3) available to television and radio stations throughout this state.

History: Add. 1993, Act 321, Eff. Apr. 1, 1994.

FIREARMS
Act 372 of 1927

AN ACT to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act.

History: 1927, Act 372, Eff. Sept. 5, 1927;—Am. 1929, Act 206, Imd. Eff. May 20, 1929;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1980, Act 345, Eff. Mar. 31, 1981;—Am. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 2000, Act 265, Imd. Eff. June 29, 2000;—Am. 2000, Act 381, Eff. July 1, 2001.

The People of the State of Michigan enact:

28.421 Definitions.

Sec. 1. As used in this act:

(a) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(b) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(c) "Purchaser" means a person who receives a pistol from another person by purchase or gift.

(d) "Seller" means a person who sells or gives a pistol to another person.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16749;—CL 1948, 28.421;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 2000, Act 381, Eff. July 1, 2001.

28.421a Concealed pistol licenses; issuance; creation of standardized system.

Sec. 1a. It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and responsibilities of individuals who have obtained a license to carry a concealed pistol. It is also the intent of the legislature to grant an applicant the right to know why his or her application for a concealed pistol license is denied and to create a process by which an applicant may appeal that denial.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.422 License to purchase, carry, or transport pistol; issuance; qualifications; applications; sale of pistol; exemptions; basic pistol safety brochure; forging application; implementation during business hours.

Sec. 2. (1) Except as provided in subsection (2), a person shall not purchase, carry, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(2) A person who brings a pistol into this state who is on leave from active duty with the armed forces of the United States or who has been discharged from active duty with the armed forces of the United States shall obtain a license for the pistol within 30 days after his or her arrival in this state.

(3) The commissioner or chief of police of a city, township, or village police department that issues licenses to purchase, carry, or transport pistols, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, or transport pistols to qualified applicants residing within the city, village, township, or county, as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with the pistol that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

(a) The person is not subject to an order or disposition for which he or she has received notice and an opportunity for a hearing, and which was entered into the law enforcement information network pursuant to any of the following:

(*i*) Section 464a(1) of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1464a of the Michigan Compiled Laws.

(*ii*) Section 444a(1) of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.444a of the Michigan Compiled Laws.

(*iii*) Section 2950(9) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2950 of the Michigan Compiled Laws.

(*iv*) Section 2950a(7) of Act No. 236 of the Public Acts of 1961, being section 600.2950a of the Michigan Compiled Laws.

(*v*) Section 14(7) of chapter 84 of the Revised Statutes of 1846, being section 552.14 of the Michigan Compiled Laws.

(*vi*) Section 6b(5) of chapter V of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 765.6b of the Michigan Compiled Laws, if the order has a condition imposed pursuant to section 6b(3) of chapter V of Act No. 175 of the Public Acts of 1927.

(*vii*) Section 16b(1) of chapter IX of Act No. 175 of the Public Acts of 1927, being section 769.16b of the Michigan Compiled Laws.

(b) The person is 18 years of age or older or, if the seller is licensed pursuant to section 923 of title 18 of the United States Code, 18 U.S.C. 923, is 21 years of age or older.

(c) The person is a citizen of the United States and is a legal resident of this state.

(d) A felony charge against the person is not pending at the time of application.

(e) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws.

(f) The person has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.

(g) The person is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(h) The person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.

(i) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the basic pistol safety review board and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

(4) Applications for licenses under this section shall be signed by the applicant under oath upon forms provided by the director of the department of state police. Licenses to purchase, carry, or transport pistols shall be executed in triplicate upon forms provided by the director of the department of state police and shall be signed by the licensing authority. Three copies of the license shall be delivered to the applicant by the licensing authority.

(5) Upon the sale of the pistol, the seller shall fill out the license forms describing the pistol sold, together with the date of sale, and sign his or her name in ink indicating that the pistol was sold to the licensee. The licensee shall also sign his or her name in ink indicating the purchase of the pistol from the seller. The seller may retain a copy of the license as a record of the sale of the pistol. The licensee shall return 2 copies of the license to the licensing authority within 10 days following the purchase of the pistol.

(6) One copy of the license shall be retained by the licensing authority as an official record for a period of 6 years. The other copy of the license shall be forwarded by the licensing authority within 48 hours to the director of the department of state police. A license is void unless used within 10 days after the date of its issue.

(7) This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, or to the sale, barter, or exchange of pistols kept solely as relics, curios, or antiques not made for modern ammunition or permanently deactivated. This section does not prevent the transfer of ownership of pistols that are inherited if the license to purchase is approved by the commissioner or chief of police, sheriff, or their authorized deputies, and signed by the personal representative of the estate or by the next of kin having authority to dispose of the pistol.

(8) The licensing authority shall provide a basic pistol safety brochure to each applicant for a license under this section before the applicant answers the basic pistol safety review questionnaire. A basic pistol safety brochure shall contain, but is not limited to providing, information on all of the following subjects:

(a) Rules for safe handling and use of pistols.

(b) Safe storage of pistols.

(c) Nomenclature and description of various types of pistols.

(d) The responsibilities of owning a pistol.

(9) The basic pistol safety brochure shall be supplied in addition to the safety pamphlet required by section 9b.

(10) The basic pistol safety brochure required in subsection (8) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols.

(11) A person who forges any matter on an application for a license under this section is guilty of a felony, punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(12) A licensing authority shall implement this section during all of the licensing authority's normal business hours and shall set hours for implementation that allow an applicant to use the license within the time period set forth in subsection (6).

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16750;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1941, Act 112, Imd. Eff. May 21, 1941;—Am. 1943, Act 51, Imd. Eff. Mar. 30, 1943;—CL 1948, 28.422;—Am. 1949, Act 170, Eff. Sept. 23, 1949;—Am. 1957, Act 259, Eff. Sept. 27, 1957;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1967, Act 158, Eff. Nov. 2, 1967;—Am. 1968, Act 301, Eff. Nov. 15, 1968;—Am. 1972, Act 15, Imd. Eff. Feb. 19, 1972;—Am. 1986, Act 161, Eff. Aug. 1, 1986;—Am. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 220, Imd. Eff. Oct. 13, 1992;—Am. 1994, Act 338, Eff. Apr. 1, 1996.

Constitutionality: The Michigan Court of Appeals held in Chan v City of Troy, 220 Mich App 376; 559 NW2d 374 (1997), that the citizen requirement, now MCL 28.422(3)(c), for a permit to purchase a pistol contained in MCL 28.422(3)(b) violates the Equal Protection Clause of the Fourteenth Amendment and is unconstitutional.

28.422a Individual licensed under § 28.425b; sales record; exemption; materially false statement as felony; penalty; rules.

Sec. 2a. (1) An individual who is licensed under section 5b to carry a concealed pistol is not required to obtain a license under section 2 to purchase, carry, or transport a pistol.

(2) If an individual licensed under section 5b purchases a pistol, the seller shall complete a sales record in triplicate on a form provided by the department of state police. The record shall include the individual's concealed weapon license number. The individual purchasing the pistol shall sign the record. The seller shall retain 1 copy of the record, provide 1 copy to the individual purchasing the pistol, and forward the original to the department of state police within 10 days following the purchase.

(3) This section does not apply to a person or entity exempt under section 2(7).

(4) An individual who makes a material false statement on a sales record under this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(5) The department of state police may promulgate rules to implement this section.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: Former § 28.422a, which pertained to a basic pistol safety brochure, was repealed by Act 220 of 1992, Imd. Eff. Oct. 13, 1992.

28.422b Entry of order or disposition into Law Enforcement Information Network; written notice; person subject of order; request to amend inaccuracy; notice of grant or denial of request; hearing; exemption from public disclosure.

Sec. 2b. (1) Upon entry of an order or disposition into the law enforcement information network under any provision of law described in section 2(3)(a), the department of state police shall immediately send written notice of that entry to the person who is the subject of the order or disposition. The notice shall be sent by first-class mail to the last known address of the person. The notice shall include at least all of the following:

(a) The name of the person.

(b) The date the order or disposition was entered into the law enforcement information network.

(c) A statement that the person cannot obtain a license to purchase a pistol or obtain a concealed weapon license until the order or disposition is removed from the law enforcement information network.

(d) A statement that the person may request that the state police correct or expunge inaccurate information entered into the law enforcement information network.

(2) A person who is the subject of an order entered into the law enforcement information network under any provision of law described in section 2(3)(a) may request that the department of state police do either of the following:

(a) Amend an inaccuracy in the information entered into the law enforcement information network under any provision of law described in section 2(3)(a).

(b) Expunge the person's name and other information concerning the person from the law enforcement information network regarding 1 or more specific entries in the law enforcement information network under any provision of law described in section 2(3)(a) because 1 or more of the following circumstances exist:

(*i*) The person is not subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(*ii*) The person is not subject to an order or disposition determining that the person is legally incapacitated.

(*iii*) The person is not subject to an injunctive order that prohibits the purchase or possession of a firearm by the person issued under any of the following:

(A) Section 2950 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2950 of the Michigan Compiled Laws.

(B) Section 2950a of Act No. 236 of the Public Acts of 1961, being section 600.2950a of the Michigan Compiled Laws.

(C) Section 14 of chapter 84 of the Revised Statutes of 1846, being section 552.14 of the Michigan Compiled Laws.

(*iv*) The person is not subject to an order for release subject to protective conditions that prohibits the purchase or possession of a firearm by the person issued under section 6b of chapter V of Act No. 175 of the Public Acts of 1927, being section 765.6b of the Michigan Compiled Laws.

(3) Before the expiration of 30 days after a request is made to amend an inaccuracy in the law enforcement information network under subsection (2)(a) or to expunge 1 or more specific entries from the law enforcement information network under subsection (2)(b)(*i*) to (*iv*), the department of state police shall conduct an investigation concerning the accuracy of the information contained in the law enforcement information network, either grant or deny the request and provide the person with written notice of that grant or denial. A notice of denial shall include a statement specifying the basis of the denial, and that a person may appeal the denial pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(4) If the department of state police refuses a request by a person for amendment or expunction under subsection (2), or fails to act within 30 days after receiving the request under subsection (2), the person may request a hearing before a hearing officer appointed by the department of state police for a determination of whether information entered into the law enforcement information network should be amended or expunged because it is inaccurate or false. The department of state police shall conduct the hearing pursuant to Act No. 306 of the Public Acts of 1969.

(5) Information contained in an order or disposition filed with the department of state police under any provision of law described in section 2(3)(a)(*i*) to (*vii*) is exempt from public disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1994, Act 338, Eff. Apr. 1, 1996.

28.423 Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to application fee.

28.424 Restoration of rights by concealed weapons licensing board; application; fee; determination; circumstances; judicial review.

Sec. 4. (1) A person who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f(2) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws, may apply to the concealed weapons licensing board in the county in which he or she resides for restoration of those rights.

(2) Not more than 1 application may be submitted under subsection (1) in any calendar year. The concealed weapons licensing board may charge a fee of not more than $10.00 for the actual and necessary expenses of each application.

(3) The concealed weapons licensing board shall, by written order of the board, restore the rights of a person to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm if the board determines, by clear and convincing evidence, that all of the following circumstances exist:

(a) The person properly submitted an application for restoration of those rights as provided under this section.

(b) The expiration of 5 years after all of the following circumstances:

(*i*) The person has paid all fines imposed for the violation resulting in the prohibition.

(*ii*) The person has served all terms of imprisonment imposed for the violation resulting in the prohibition.

(*iii*) The person has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition.

(c) The person's record and reputation are such that the person is not likely to act in a manner dangerous to the safety of other persons.

(4) If the concealed weapons licensing board pursuant to subsection (3) refuses to restore a right under this section, the person may petition the circuit court for review of that decision.

History: Add. 1992, Act 219, Imd. Eff. Oct. 13, 1992.

Compiler's note: Former section 4 of this act was not compiled.

28.425 Concealed pistol application kits.

Sec. 5. (1) County sheriffs, local police agencies, and county clerks shall provide concealed pistol application kits during normal business hours and free of charge to individuals who wish to apply for licenses to carry concealed pistols. Each kit shall only contain all of the following:

(a) A concealed pistol license application form provided by the director of the department of state police.

(b) The fingerprint cards required under section 5b(11).

(c) Written information regarding the procedures involved in obtaining a license to carry a concealed pistol, including information regarding the right to appeal the denial of a license and the form required for that appeal.

(d) Written information identifying entities that offer the training required under section 5b(7)(c).

(2) A county sheriff, local police agency, or county clerk shall not deny an individual the right to receive a concealed pistol application kit under this section.

(3) An individual who is denied an application kit under this section and obtains an order of mandamus directing the concealed weapon licensing board to provide him or her with the application kit shall be awarded his or her actual and reasonable costs and attorney fees for obtaining the order.

(4) The department of state police shall provide the application kits required under this section to county sheriffs, local law enforcement agencies, and county clerks in sufficient quantities to meet demand. The department of state police shall not charge a fee for the kits.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425a Concealed weapon licensing board; membership; quorum; voting; clerk; authority and duties; panel; investigation of license applicant; temporary license; compilation of firearms laws by legislative service bureau; distribution; statement.

Sec. 5a. (1) Each county shall have a concealed weapon licensing board. The concealed weapon licensing board of each county shall have the following members:

(a) The county prosecuting attorney or his or her designee. However, if the county prosecuting attorney decides that he or she does not want to be a member of the concealed weapon licensing board, he or she shall notify the county board of commissioners in writing that he or she does not want to be a member of the concealed weapon licensing board for the balance of his or her term in office. The county board of commissioners shall then appoint a replacement for the prosecuting attorney who is a firearms instructor who has the qualifications prescribed in section 5j(1)(c). The person who replaces the prosecuting attorney shall serve on the concealed weapon licensing board in place of the prosecuting attorney for the remaining term of the county prosecuting attorney unless removed for cause by the county board of commissioners. If a vacancy occurs on the concealed weapon licensing board of the person appointed pursuant to this section during the term of office of the county prosecuting attorney, the county board of commissioners shall appoint a replacement person who is a firearms instructor who has the qualifications prescribed in section 5j(1)(c).

(b) The county sheriff or his or her designee.

(c) The director of the department of state police or his or her designee.

(2) If a prosecuting attorney chooses not to be a member of the concealed weapon licensing board, all of the following apply:

(a) The prosecuting attorney shall be notified of all applications received by the concealed weapon licensing board.

(b) The prosecuting attorney shall be given an opportunity to object to granting a license to carry a concealed pistol and present evidence bearing directly on an applicant's suitability to carry a concealed pistol safely.

(c) The prosecuting attorney shall disclose to the concealed weapon licensing board any information of which he or she has actual knowledge that bears directly on an applicant's suitability to carry a concealed pistol safely.

(3) The county prosecuting attorney or his or her designee shall serve as chairperson of the board unless the prosecuting attorney does not want to be a member of the concealed weapon licensing board, in which case the concealed weapon licensing board shall elect its chairperson. Two members of the concealed weapon licensing board constitute a quorum of the concealed weapon licensing board. The business of the concealed weapon licensing board shall be conducted by a majority vote of all of the members of the concealed weapon licensing board.

(4) The county clerk shall serve as the clerk of the concealed weapon licensing board.

(5) Except as otherwise provided in this act, the concealed weapon licensing board has exclusive authority to issue, deny, revoke, or suspend a license to carry a concealed pistol. The concealed weapon licensing board shall perform other duties as provided by law.

(6) The concealed weapon licensing board may convene not more than 3 panels to assist the board in evaluating applicants. The panels shall be composed of representatives as prescribed in subsection (1). The panels do not have the authority to issue, deny, revoke, or suspend a license.

(7) The concealed weapon licensing board may investigate the applicant for a license to carry a concealed pistol. The investigation shall be restricted to determining only whether the applicant is eligible under this act to receive a license to carry a concealed pistol, and the investigation regarding the issuance of a license shall end after that determination is made. The concealed weapon licensing board may require the applicant to appear before the board at a mutually agreed-upon time for a conference. The applicant's failure or refusal to appear without valid reason before the concealed weapon licensing board as provided in this subsection is grounds for the board to deny issuance of a license to carry a concealed pistol to that applicant.

(8) If the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol, the concealed weapon licensing board may, pending issuance of a license, issue a temporary license to the individual to carry a concealed pistol. A temporary license shall be on a form provided by the department of state police. A temporary license shall be unrestricted and shall be valid for not more than 180 days. A temporary license may be renewed for 1 additional period of not more than 180 days. A temporary license is, for all other purposes of this act, a license to carry a concealed pistol.

(9) The legislative service bureau shall compile the firearms laws of this state, including laws that apply to carrying a concealed pistol, and shall provide copies of the compilation to each concealed weapon licensing board in this state for distribution under this subsection. A concealed weapon licensing board shall distribute a copy of the compilation to each individual who applies for a license to carry a concealed pistol at the time the application is submitted. The concealed weapon licensing board shall require the applicant to sign a written statement acknowledging that he or she has received a copy of the compilation. An individual is not eligible to receive a license to carry a concealed pistol until he or she has signed the statement.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425b License application; fee; verification of requirements; determination; circumstances for issuance; fingerprints; issuance or denial; temporary license; definitions.

Sec. 5b. (1) To obtain a license to carry a concealed pistol, an individual shall apply to the concealed weapon licensing board in the county in which that individual resides for a license to carry a concealed pistol. The application shall be filed with the county clerk as clerk of the concealed weapon licensing board during the county clerk's normal business hours. The application shall be on a form provided by the director of the department of state police and shall allow the applicant to designate whether the applicant seeks a temporary license. The application shall be signed under oath by the applicant. The oath shall be administered by the county clerk or his or her representative. The application shall contain all of the following information:

(a) The applicant's legal name, date of birth, and the address of his or her primary residence. If the applicant resides in a city, village, or township that has a police department, the information provided under this subdivision shall include a statement that the city, village, or township has a police department.

(b) A statement by the applicant that the applicant meets the criteria for a license under this act to carry a concealed pistol.

(c) A statement by the applicant providing authority to the concealed weapon licensing board to access any record pertaining to the qualifications of an applicant for a license to carry a concealed pistol under this act.

(d) A statement by the applicant regarding whether he or she has a history of mental illness that would disqualify him or her under subsection (7)(j) to (*l*) from receiving a license to carry a concealed pistol, and granting authority to the concealed weapon licensing board to access the mental health records of the applicant relating to his or her mental health history. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Information received by the concealed weapon licensing board under this subdivision is confidential and shall not be disclosed to any person except for purposes of this act.

(e) A statement by the applicant regarding whether he or she has ever been convicted in this state or elsewhere for any felony or misdemeanor.

(f) A statement by the applicant whether he or she is dishonorably discharged from the United States armed forces.

(g) If the applicant seeks a temporary license, the facts supporting the issuance of that temporary license.

(h) A statement setting forth the names, residential addresses, and telephone numbers of 2 individuals who are references for the applicant.

(i) A passport-quality photograph of the applicant provided by the applicant.

(2) The application form shall contain a conspicuous warning that the application is executed under oath and that intentionally making a material false statement on the application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(3) An individual who intentionally makes a material false statement on an application under subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(4) The concealed weapon licensing board shall retain a copy of each application for a license to carry a concealed pistol as an official record.

(5) Each applicant shall pay a fee of $55.00 by any method of payment accepted by that county for payments of other fees and penalties, plus an additional assessment of $5.00 for deposit in the concealed weapon enforcement fund under section 5v at the time of filing an application under this section. A unit of local government, an agency of a unit of local government, or

an agency or department of this state shall not charge an additional fee, assessment, or other amount in connection with a license under this section, other than the fingerprint fee provided for in this act. The fee and assessment shall be payable to the county. The county treasurer shall deposit $10.00 of each fee collected under this section in the general fund of the county to the credit of the county clerk and forward the balance to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The state treasurer shall deposit the assessment in the concealed weapon enforcement fund created in section 5v. Each county shall report to the senate and house fiscal agencies by October 1 of each year its costs per applicant to implement this section.

(6) The county sheriff on behalf of the concealed weapon licensing board shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), (*l*), and (m) through the law enforcement information network and report his or her finding to the concealed weapon licensing board. If the applicant resides in a city, village, or township that has a police department, the concealed weapon licensing board shall contact that city, village, or township police department to determine only whether that city, village, or township police department has any information relevant to the investigation of whether the applicant is eligible under this act to receive a license to carry a concealed pistol.

(7) The concealed weapon licensing board shall issue a license to an applicant to carry a concealed pistol within the period required under this act after the applicant properly submits an application under subsection (1) and the concealed weapon licensing board determines that all of the following circumstances exist:

(a) The applicant is 21 years of age or older.

(b) The applicant is a citizen of the United States or is a resident legal alien as defined in section 11 of title 18 of the United States Code, is a resident of this state, and has resided in this state for at least 6 months. The concealed weapon licensing board may waive the 6-month residency requirement for a temporary license under section 5a(8) if the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol.

(c) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

(d) The applicant is not the subject of an order or disposition under any of the following:

(*i*) Section 464a of the mental health code, 1974 PA 258, MCL 330.1464a.

(*ii*) Former section 444a of the revised probate code, 1978 PA 642, MCL 700.444a, or section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

(*iii*) Sections 2950 and 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(*iv*) Section 6b of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed pursuant to section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(*v*) Section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) The applicant is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The applicant has never been convicted of a felony in this state or elsewhere, and a felony charge against the applicant is not pending in this state or elsewhere at the time he or she applies for a license described in this section.

(g) The applicant is not dishonorably discharged from the United States armed forces.

(h) The applicant has not been convicted of a misdemeanor violation of any of the following in the 8 years immediately preceding the date of application:

(*i*) Section 625(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, punishable as provided in subsection (8)(b) of that section (drunk driving, second offense).

(*ii*) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626 (reckless driving).

(*iii*) Section 904(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.904 (driving while license suspended or revoked), punishable as a second or subsequent offense.

(*iv*) Section 29 of 1964 PA 283, MCL 290.629 (hindering or obstructing weights and measures enforcement officer).

(*v*) Section 10 of the motor fuels quality act, 1984 PA 44, MCL 290.650 (hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative).

(*vi*) Section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(*vii*) Section 7 of 1978 PA 33, MCL 722.677 (displaying sexually explicit materials to minors).

(*viii*) Section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81 (assault or domestic assault).

(*ix*) Section 81a(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.81a (aggravated assault or aggravated domestic assault).

(*x*) Section 136b(5) of the Michigan penal code, 1931 PA 328, MCL 750.136b (fourth degree child abuse).

(*xi*) Section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a (accosting, enticing, or soliciting a child for immoral purposes).

(*xii*) Section 145n of the Michigan penal code, 1931 PA 328, MCL 750.145n (vulnerable adult abuse).

(*xiii*) Section 157b(3)(b) of the Michigan penal code, 1931 PA 328, MCL 750.157b (solicitation to commit a felony).

(*xiv*) Section 215 of the Michigan penal code, 1931 PA 328, MCL 750.215 (impersonating sheriff, conservation officer, coroner, constable, or police officer).

(*xv*) Section 223 of the Michigan penal code, 1931 PA 328, MCL 750.223 (illegal sale of a firearm or ammunition).

(*xvi*) Section 224d of the Michigan penal code, 1931 PA 328, MCL 750.224d (illegal sale of a self-defense spray).

(*xvii*) Section 226a of the Michigan penal code, 1931 PA 328, MCL 750.226a (sale or possession of a switchblade).

(*xviii*) Section 227c of the Michigan penal code, 1931 PA 328, MCL 750.227c (improper transportation of a firearm).

(*xix*) Section 228 of the Michigan penal code, 1931 PA 328, MCL 750.228 (failure to have a pistol inspected).

(*xx*) Section 229 of the Michigan penal code, 1931 PA 328, MCL 750.229 (accepting a pistol in pawn).

(*xxi*) Section 232 of the Michigan penal code, 1931 PA 328, MCL 750.232 (failure to register the purchase of a firearm or a firearm component).

(*xxii*) Section 232a of the Michigan penal code, 1931 PA 328, MCL 750.232a (improperly obtaining a pistol, making a false statement on an application to purchase a pistol, or using false identification to purchase a pistol).

(*xxiii*) Section 233 of the Michigan penal code, 1931 PA 328, MCL 750.233 (intentionally aiming a firearm without malice).

(*xxiv*) Section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234 (intentionally discharging a firearm aimed without malice).

(*xxv*) Section 234d of the Michigan penal code, 1931 PA 328, MCL 750.234d (possessing a firearm on prohibited premises).

(*xxvi*) Section 234e of the Michigan penal code, 1931 PA 328, MCL 750.234e (brandishing a firearm in public).

(*xxvii*) Section 234f of the Michigan penal code, 1931 PA 328, MCL 750.234f (possession of a firearm by an individual less than 18 years of age).

(*xxviii*) Section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235 (intentionally discharging a firearm aimed without malice causing injury).

(*xxix*) Section 235a of the Michigan penal code, 1931 PA 328, MCL 750.235a (parent of a minor who possessed a firearm in a weapon free school zone).

(*xxx*) Section 236 of the Michigan penal code, 1931 PA 328, MCL 750.236 (setting a spring gun or other device).

(*xxxi*) Section 237 of the Michigan penal code, 1931 PA 328, MCL 750.237 (possessing a firearm while under the influence of intoxicating liquor or a drug).

(*xxxii*) Section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a (weapon free school zone violation).

(*xxxiii*) Section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h (stalking).

(*xxxiv*) Section 1 of 1952 PA 45, MCL 752.861 (reckless, careless, or negligent use of a firearm resulting in injury or death).

(*xxxv*) Section 2 of 1952 PA 45, MCL 752.862 (careless, reckless, or negligent use of a firearm resulting in property damage).

(*xxxvi*) Section 3a of 1952 PA 45, MCL 752.863a (reckless discharge of a firearm).

(*xxxvii*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xxxvi*).

(i) The applicant has not been convicted of any other misdemeanor in this state or elsewhere, in the 3 years immediately preceding the date of application.

(j) The applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.

(k) The applicant has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(*l*) The applicant does not have a diagnosed mental illness at the time the application is made regardless of whether he or she is receiving treatment for that illness.

(m) The applicant is not under a court order of legal incapacity in this state or elsewhere.

(n) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

(o) Issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual. A determination under this subdivision shall be based on clear and convincing evidence of civil infractions, crimes, personal protection orders or injunctions, or police reports or other clear and convincing evidence of the actions of, or statements of, the applicant that bear directly on the applicant's ability to carry a concealed pistol.

(8) Upon entry of a court order or conviction of 1 of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving or distributing a firearm in this section the department of state police shall immediately enter the order or conviction into the law enforcement information network. For purposes of this act, information of the court order or conviction shall not be removed from the law enforcement information network, but may be moved to a separate file intended for the use of the county concealed weapon licensing boards, the courts, and other government entities as necessary and exclusively to determine eligibility to be licensed under this act.

(9) Before submitting an application under this section, the individual shall have 2 sets of classifiable fingerprints taken by the county sheriff. A sheriff may charge a fee for the actual and reasonable costs of taking the fingerprints, but not more than $15.00.

(10) The county sheriff shall take the fingerprints of an individual within the expiration of 5 business days after the individual requests his or her fingerprints to be taken under subsection (9).

(11) One set of fingerprints taken under subsection (9) shall be taken on a form furnished by the department of state police and provided to the applicant under section 5. That set of fingerprints shall be forwarded immediately by the county sheriff to the department of state police. The department of state police shall compare that set of fingerprints with fingerprints already on file with the department of state police. The other set of fingerprints taken under subsection (9) shall be taken on a form furnished by the federal bureau of investigation and provided to the applicant under section 5. That set of fingerprints shall be forwarded immediately by the county sheriff to the department of state police who shall forward that set of fingerprints to the federal bureau of investigation or an entity designated by the federal bureau of investigation to receive those fingerprints. The request shall state that the department of state police is to be provided with the report of the comparison. The department of state police shall within 10 days after receiving the report provide a copy of both comparisons to the county sheriff who took the fingerprints and to the concealed weapon licensing board of the county in which the applicant resides. The concealed weapon licensing board shall not issue a concealed weapon license under this section to an applicant until the concealed weapon licensing board has received the fingerprint comparison reports required under this subsection. The concealed weapon licensing board is not required to issue a concealed weapons license to an applicant if that applicant's fingerprints are determined to be unclassifiable by the federal bureau of investigation.

(12) The concealed weapon licensing board shall deny a license to an applicant to carry a concealed pistol if the applicant is not qualified under subsection (7) to receive that license.

(13) A license to carry a concealed pistol that is issued based upon an application that contains a material false statement is void from the date the license is issued.

(14) Subject to subsections (11) and (15), the concealed weapon licensing board shall issue or deny issuance of a license within 30 days after the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (11). If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, the concealed weapon licensing board shall within 5 business days do both of the following:

(a) Inform the applicant in writing of the reasons for the denial. Information under this subdivision shall include all of the following:

(*i*) A statement of the specific and articulable facts supporting the denial.

(*ii*) Copies of any writings, photographs, records, or other documentary evidence upon which the denial is based.

(b) Inform the applicant in writing of his or her right to appeal the denial to the circuit court as provided in section 5d.

(15) If the fingerprint comparison report is not received by the concealed weapon licensing board within 30 days after the fingerprint report is forwarded to the department of state police by the federal bureau of investigation, the concealed weapon licensing board shall issue a temporary license to carry a concealed pistol to the applicant if the applicant is otherwise qualified for a license. A temporary license issued under this section is valid for 180 days or until the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (11) and issues or denies issuance of a license to carry a concealed pistol as otherwise provided under this act. Upon issuance or the denial of issuance of the license to carry a concealed pistol to an applicant who received a temporary license under this section, the applicant shall immediately surrender the temporary license to the concealed weapon licensing board that issued that temporary license.

(16) As used in this section:

(a) "Convicted" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(c) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and includes, but is not limited to, clinical depression.

(d) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(e) "Treatment" means care or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425c License; form; authorized conduct.

Sec. 5c. (1) A license to carry a concealed pistol shall be in a form prescribed by the department of state police. The license shall contain all of the following:

(a) The licensee's full name, date of birth, and street address.

(b) A photograph and a physical description of the licensee.

(c) A statement of the effective dates of the license.

(2) Subject to section 5o and except as otherwise provided by law, a license to carry a concealed pistol issued by the county concealed weapon licensing board authorizes the licensee to do all of the following:

(a) Carry a pistol concealed on or about his or her person anywhere in this state.

(b) Carry a pistol in a vehicle, whether concealed or not concealed, anywhere in this state.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425d Denial or failure to issue license; appeal.

Sec. 5d. (1) If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, or fails to issue that license as provided in this act, the applicant may appeal the denial or the failure to issue the license to the circuit court in the judicial circuit in which he or she resides. The appeal of the denial or failure to issue a license shall be determined by a review of the record for error, except that if the decision of the concealed weapon licensing board was based upon grounds specified in section 5b(7)(o) that portion of the appeal shall be by hearing de novo. Witnesses in the hearing shall be sworn. A jury shall not be provided in a hearing under this section. A verbatim record shall be made.

(2) If the court determines that the denial or failure to issue a license was clearly erroneous, the court shall order the concealed weapon licensing board to issue a license as required by this act.

(3) If the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court shall order this state to pay 1/3 and the county in which the concealed weapon licensing board is located to pay 2/3 of the actual costs and actual attorney fees of the applicant in appealing the denial.

(4) If the court determines that an applicant's appeal was frivolous, the court shall order the applicant to pay the actual costs and actual attorney fees of the concealed weapon licensing board in responding to the appeal.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425e Database; report.

Sec. 5e. (1) The department of state police shall create and maintain a computerized database of individuals who apply under this act for a license to carry a concealed pistol. The database shall contain only the following information as to each individual:

(a) The individual's name, date of birth, address, and county of residence.

(b) If the individual is licensed to carry a concealed pistol in this state, the license number and date of expiration.

(c) Except as provided in subsection (2), if the individual was denied a license to carry a concealed pistol after the effective date of the amendatory act that added this subdivision, a statement of the reasons for that denial.

(d) A statement of all criminal charges pending and criminal convictions obtained against the individual during the license period.

(e) A statement of all determinations of responsibility for civil infractions of this act pending or obtained against the individual during the license period.

(2) If an individual who was denied a license to carry a concealed pistol after the effective date of the amendatory act that added this subsection is subsequently issued a license to carry a concealed pistol, the department of state police shall delete from the computerized database the previous reasons for the denial.

(3) The department of state police shall enter the information described in subsection (1)(a) and (b) into the law enforcement information network.

(4) Information in the database, compiled under subsections (1) through (3), is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes. The information compiled under subsection (5) is subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) The department of state police shall file an annual report with the secretary of the senate and the clerk of the house of representatives setting forth all of the following information for each county concealed weapon licensing board:

(a) The number of concealed pistol applications received.

(b) The number of concealed pistol licenses issued.

(c) The number of concealed pistol licenses denied.

(d) Categories for denial under subdivision (c).

(e) The number of concealed pistol licenses revoked.

(f) Categories for revocation under subdivision (e).

(g) The number of applications pending at the time the report is made.

(h) The mean and median amount of time and the longest and shortest amount of time used by the federal bureau of investigation to supply the fingerprint comparison report required in section 5b(11). The department may use a statistically significant sample to comply with this subdivision.

(i) The number of charges of state civil infractions of this act or charges of criminal violations, categorized by offense, filed against individuals licensed to carry a concealed pistol that resulted in a finding of responsibility or a criminal conviction. The report shall indicate the number of crimes in each category of criminal offense that involved the brandishing or use of a pistol, the number that involved the carrying of a pistol by the license holder during the commission of the crime, and the number in which no pistol was carried by the license holder during the commission of the crime.

(j) The number of pending criminal charges, categorized by offense, against individuals licensed to carry a concealed pistol.

(k) The number of criminal cases dismissed, categorized by offense, against individuals licensed to carry a concealed pistol.

(*l*) The number of cases filed against individuals licensed to carry a concealed pistol for criminal violations that resulted in a finding of not responsible or not guilty, categorized by offense.

(m) For the purposes of subdivisions (i), (j), (k), and (*l*), the department of state police shall use the data provided under section 5m.

(n) The number of suicides by individuals licensed to carry a concealed pistol.

(o) Actual costs incurred per permit for each county.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425f Concealed pistol license; possession; disclosure; violation; penalty; seizure; forfeiture.

Sec. 5f. (1) An individual who is licensed under this act to carry a concealed pistol shall have his or her license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol.

(2) An individual who is licensed under this act to carry a concealed pistol shall show both of the following to a peace officer upon request by that peace officer:

(a) His or her license to carry a concealed pistol.

(b) His or her driver license or Michigan personal identification card.

(3) An individual licensed under this act to carry a concealed pistol who is stopped by a peace officer shall disclose to the peace officer that he or she is carrying a pistol concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and may be fined not more than $100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and may be fined as follows:

(a) For a first offense, by a fine of not more than $500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

(b) For a second or subsequent offense, by a fine of not more than $1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a civil infraction under this section, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(7) A pistol carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol to the individual unless the individual is prohibited by law from possessing a firearm. If the individual does not display his or her license or documentation before the expiration of the 45-day period, the pistol is subject to forfeiture as provided in section 5g. A pistol is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425g Pistol subject to seizure and forfeiture.

Sec. 5g. A pistol carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. This section does not apply if the violation is a state civil infraction under section 5f unless the individual fails to present his or her license within the 45-day period described in that section.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425h Expiration of license issued under former law; renewal license.

Sec. 5h. (1) An individual who is licensed to carry a concealed pistol on the effective date of the amendatory act that added this section may carry a concealed pistol under that license until the license expires or the individual's authority to carry a concealed pistol under that license is otherwise terminated, whichever occurs first.

(2) An individual who is licensed under this act to carry a concealed pistol on the effective date of the amendatory act that added this section may apply for a renewal license upon the expiration of that license as provided in section 5*l*.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425i Instruction or training; liability.

Sec. 5i. (1) A person or entity that provides instruction or training to another person under section 5b is immune from civil liability for damages to any person or property caused by the person who was trained.

(2) This section does not apply if the person or entity providing the instruction or training was grossly negligent.

(3) This section is in addition to and not in lieu of immunity otherwise provided by law.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425j Pistol training or safety program; conditions.

Sec. 5j. (1) A pistol training or safety program described in section 5b(7)(n) meets the requirements for knowledge or training in the safe use and handling of a pistol only if all of the following conditions are met:

(a) The program is certified by this state or a national or state firearms training organization and provides instruction in, but is not limited to providing instruction in, all of the following:

(*i*) The safe storage, use, and handling of a pistol including, but not limited to, safe storage, use, and handling to protect child safety.

(*ii*) Ammunition knowledge, and the fundamentals of pistol shooting.

(*iii*) Pistol shooting positions.

(*iv*) Firearms and the law, including civil liability issues.

(*v*) Avoiding criminal attack and controlling a violent confrontation.

(*vi*) All laws that apply to carrying a concealed pistol in this state.

(*vii*) At least 8 hours of instruction, including 3 hours of firing range time.

(b) The program provides a certificate of completion that states the program complies with the requirements of this section and that the individual successfully completed the course, and that is signed by the course instructor.

(c) The instructor of the course is certified by this state or a national organization to teach the 8-hour pistol safety training course described in this section.

(2) A person shall not do either of the following:

(a) Grant a certificate of completion described under subsection (1)(b) to an individual knowing the individual did not satisfactorily complete the course.

(b) Present a certificate of completion described under subsection (1)(b) to a concealed weapon licensing board knowing that the individual did not satisfactorily complete the course.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425k Acceptance of license as implied consent to submit to chemical analysis of breath, blood, or urine.

Sec. 5k. (1) Acceptance of a license issued under this act to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section. This section also applies to individuals listed in section 12a(a) to (f).

(2) An individual shall not carry a concealed pistol while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. A person who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court shall order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to permanently revoke the license. The concealed weapon licensing board shall permanently revoke the license as ordered by the court.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court may order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to revoke the license for not more than 3 years. The concealed weapon licensing board shall revoke the license as ordered by the court.

(c) If the person had a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and may be fined not more than $100.00. The court may order the concealed weapon licensing board that issued the individual the license to revoke the license for 1 year. The concealed weapon licensing board shall revoke the license as ordered by the court. The court shall notify the concealed weapon licensing board that issued the individual a license to carry a concealed pistol if an individual is found responsible for a subsequent violation of this subdivision.

(3) This section does not prohibit an individual licensed under this act to carry a concealed pistol who has any bodily alcohol content from transporting that pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol or on a vessel if the pistol is transported unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(4) A peace officer who has probable cause to believe an individual is carrying a concealed pistol in violation of this section may require the individual to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before an individual is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(*i*) The officer may obtain a court order requiring the individual to submit to a chemical analysis.

(*ii*) The refusal may result in his or her license to carry a concealed pistol being suspended or revoked.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol- and controlled-substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a person refuses to take a chemical test authorized under this section, the peace officer shall promptly report the refusal in writing to the concealed weapon licensing board that issued the license to the individual to carry a concealed pistol.

(8) If a person takes a chemical test authorized under this section and the test results indicate that the individual had any bodily alcohol content while carrying a concealed pistol, the peace officer shall promptly report the violation in writing to the concealed weapon licensing board that issued the license to the individual to carry a concealed pistol.

(9) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7401.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425*l* License; validity; duration; renewal.

Sec. 5*l*. (1) A license to carry a concealed pistol is valid for 3 years and may be renewed in the same manner as the original license was received, except as follows:

(a) The renewal fee is $35.00. The fee shall be payable to the county. The county treasurer shall deposit the fee in the general fund of the county.

(b) For an individual who held a general nonrestricted license on July 1, 2001 and who was a peace officer or a former peace officer, the educational requirements of section 5b(7)(n) are waived. For an individual licensed on or after July 1, 2001, the educational requirements of section 5b(7)(n) are waived except that the applicant shall present a statement signed by the applicant certifying that he or she has completed not less than 3 hours of review of the training described under section 5b(7)(n) since receiving his or her license, and that training included firing range time in the 6 months immediately preceding his or her renewal application. For any other individual licensed before July 1, 2001 applying for the first time under this section to renew his or her license to carry a concealed pistol, the educational requirements of section 5b(7)(n) are not waived.

(2) An individual licensed to carry a concealed pistol under this act on July 1, 2001 is eligible for a renewal license at the fee provided for under this section. This subsection applies regardless of whether the license was restricted.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425m Notification of criminal charge; report.

Sec. 5m. A prosecuting attorney shall promptly notify the county concealed weapon licensing board that issued the license of a criminal charge against a license holder for a felony or specified criminal offense as defined in this act. The prosecuting attorney shall promptly notify the county concealed weapon licensing board that issued the license of the disposition of the criminal charge. If a license holder is convicted of a crime, the prosecuting attorney's notification shall indicate if the crime involved the brandishing or use of a pistol, if a pistol was carried by the license holder during the commission of the crime, or if no pistol was carried by the license holder during the commission of the crime. The state police shall provide a form for reporting purposes. Each year by a date determined by the director of the department of state police, the chairperson of the county concealed weapon licensing board shall compile and provide a report to the department of state police in a format determined by the director of the department of state police containing the information provided to the concealed weapon licensing board under this section, section 5f(6), or section 5k(7) or (8).

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425n Other license or permit; limitations by employer prohibited.

Sec. 5n. (1) This state or a local unit of government of this state shall not prohibit an individual from doing either of the following as a condition for receiving or maintaining any other license or permit authorized by law:

(a) Applying for or receiving a license to carry a concealed pistol under this act.

(b) Carrying a concealed pistol in compliance with a license issued under this act.

(2) Except as provided in subsection (3), an employer shall not prohibit an employee from doing either of the following:

(a) Applying for or receiving a license to carry a concealed pistol under this act.

(b) Carrying a concealed pistol in compliance with a license issued under this act. This subdivision does not prohibit an employer from prohibiting an employee from carrying a concealed pistol in the course of his or her employment with that employer.

(3) A police agency may prohibit an employee of that police agency from carrying a concealed pistol if carrying a concealed pistol would result in increased insurance premiums or a loss or reduction of insurance coverage for that employer.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425o Premises on which carrying concealed weapon prohibited; violation.

Sec. 5o. (1) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or

picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private day care center, public or private child caring agency, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A dining room, lounge, or bar area of a premises licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303. This subdivision shall not apply to an owner or employee of the premises.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated pursuant to the Michigan gaming control and revenue act, the initiated law of 1996, MCL 432.201 to 432.226.

(3) An individual who violates this section is responsible for a civil violation guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a civil violation and may be fined not more than $500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

(b) For a second violation the individual is guilty of a misdemeanor punishable by a fine of not more than $1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: In subsection (3), the phrase "for a civil violation guilty of a crime" evidently should read "for a civil infraction or guilty of a crime."

28.425v Concealed weapon enforcement fund; creation; disposition of funds; lapse; expenditures.

Sec. 5v. (1) The concealed weapon enforcement fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of state police shall expend money from the fund only to provide training to law enforcement personnel regarding the rights and responsibilities of individuals who are licensed to carry concealed pistols in this state and proper enforcement techniques in light of those rights and responsibilities.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.425w Appropriation; amount; purpose; total state spending; appropriations and expenditures subject to §§ 18.1101 to 18.1594.

Sec. 5w. (1) One million dollars is appropriated from the general fund to the department of state police for the fiscal year ending September 30, 2001 for all of the following:

(a) Distributing trigger locks or other safety devices for firearms to the public free of charge.

(b) Providing concealed pistol application kits to county sheriffs, local police agencies, and county clerks for distribution under section 5.

(c) The fingerprint analysis and comparison reports required under section 5b(11).

(d) Photographs required under section 5c.

(e) Creating and maintaining the database required under section 5e.

(f) Creating and maintaining a database of firearms that have been reported lost or stolen. Information in the database shall be made available to law enforcement through the law enforcement information network.

(g) Grants to county concealed weapon licensing boards for expenditure only to implement this act.

(h) Training under section 5v(4).

(i) Creating and distributing the reporting forms required under section 5m.

(j) A public safety campaign regarding the requirements of this act.

(2) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under subsection (1) for the fiscal year ending September 30, 2001 is $1,000,000.00.

(3) The appropriations made and the expenditures authorized under this section and the departments, agencies, commissions, boards, offices, and programs for which an appropriation is made under this section are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

History: Add. 2000, Act 381, Eff. July 1, 2001.

28.426 Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to concealed weapon licensing board.

28.426a Licenses to equip premises or vehicles with gas ejecting devices; rules; license to manufacture or sell gas ejecting or emitting weapon, cartridge, or device; "gas ejecting device" defined; license not required for self-defense spray device.

Sec. 6a. (1) A concealed weapons licensing board may issue to any bank, trust company, armored car company, railway company, express company, or other company, institution, copartnership, or individual having in its, their, or the individual's possession large sums of money or other valuables, a license authorizing the licensee to equip the premises or vehicles under its, their, or the individual's control with gas ejecting devices to be used solely for the purpose of protecting those premises or vehicles and the persons or property in the premises or vehicles from criminal assaults.

(2) The director of the department of state police shall promulgate rules to govern the issuing of the license and the making of an application for the license. The rules shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws. The concealed weapons licensing board may issue to any company, copartnership, or individual under the limitations and pursuant to the rules promulgated by the director of the department of state police a license authorizing the corporation, copartnership, or individual to manufacture or sell, or both, a gas ejecting or emitting weapon, cartridge, or device to any person authorized by law to possess the weapon, cartridge, or device.

(3) For purposes of this section, "gas ejecting device" means a device designed for the purpose of rendering a person either temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

(4) A license shall not be required under this section for the sale, purchase, or possession of a self-defense spray device, as defined in section 224d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224d of the Michigan Compiled Laws.

History: Add. 1929, Act 206, Imd. Eff. May 20, 1929;—CL 1929, 16755;—CL 1948, 28.426a;—Am. 1980, Act 345, Eff. Mar. 31, 1981;—Am. 1991, Act 34, Imd. Eff. June 10, 1991.

Administrative rules: R 28.91 and R 28.92 of the Michigan Administrative Code.

28.427 Concealed weapons licenses; expiration.

Sec. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December 31, 1927.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16756;—CL 1948, 28.427.

28.428 Revocation of licenses; grounds; hearing; suspension; order; notice.

Sec. 8. (1) The concealed weapon licensing board that issued a license to an applicant to carry a concealed pistol may revoke that license if the board determines that the individual committed any violation of this act other than a violation of section 5f(4) or if the board determines that the individual is not eligible under this act to receive a license to carry a concealed pistol. If the board determines that the individual has been found responsible for 3 or more state civil infraction violations of this act during the license period, the board shall conduct a hearing and may suspend the individual's license for not more than 1 year.

(2) Except as provided in subsections (3) and (4), a license shall not be revoked under this section except upon written complaint and an opportunity for a hearing before the board. The board shall give the individual at least 10 days' notice of a hearing under this section. The notice shall be by personal service or by certified mail delivered to the individual's last known address.

(3) If the concealed weapon licensing board is notified by a law enforcement agency or prosecuting official that an individual licensed to carry a concealed pistol is charged with a felony or misdemeanor as defined in this act, the concealed weapon licensing board shall immediately suspend the individual's license until there is a final disposition of the charge for that offense and send notice of that suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(4) If the concealed weapon licensing board determines by clear and convincing evidence based on specific articulable facts that the applicant poses a danger to the applicant or to any other person, the concealed weapon licensing board shall immediately suspend the individual's license pending a revocation hearing under this section. The concealed weapon licensing board shall send notice of the suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(5) If the concealed weapon licensing board orders a license suspended or revoked under this section or amends a suspension or revocation order, the concealed weapon licensing board shall immediately notify a law enforcement agency having jurisdiction in the county in which the concealed weapon licensing board is located to enter the order or amended order into the law enforcement information network. A law enforcement agency that receives notice of an order or amended order under this subsection from a concealed weapon licensing board shall immediately enter the order or amended order into the law enforcement information network as requested by that concealed weapon licensing board.

(6) A suspension or revocation order or amended order issued under this section is immediately effective. However, an individual is not criminally liable for violating the order or amended order unless he or she has received notice of the order or amended order.

(7) If an individual is carrying a pistol in violation of a suspension or revocation order or amended order issued under this section but has not previously received notice of the order or amended order, the individual shall be informed of the order or amended order and be given an opportunity to properly store the pistol or otherwise comply with the order or amended order before an arrest is made for carrying the pistol in violation of this act.

(8) If a law enforcement agency or officer notifies an individual of a suspension or revocation order or amended order issued under this section who has not previously received notice of the order or amended order, the law enforcement agency or officer shall enter a statement into the law enforcement information network that the individual has received notice of the order or amended order under this section.

(9) The clerk of the concealed weapon licensing board is authorized to administer an oath to any individual testifying before the board at a hearing under this section.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16757;—CL 1948, 28.428;—Am. 2000, Act 381, Eff. July 1, 2001.

28.429 Pistols; safety inspection required; certificate of inspection; exemptions; requirements of pistol presented for inspection; violation as civil infraction; fine.

Sec. 9. (1) A person within the state who owns or comes into possession of a pistol shall, if he or she resides in a city, township, or village having an organized police department, present the pistol for safety inspection to the commissioner or chief of police of the city, township, or village police department or to a duly authorized deputy of the commissioner or chief of police. If that person resides in a part of the county not included within a city, township, or village having an organized police department, he or she shall present the pistol for safety inspection to the sheriff of the county or to a duly authorized deputy of the sheriff. If the person presenting the pistol is eligible to possess a pistol under section 2(1), a certificate of inspection shall be issued in triplicate on a form provided by the director of the department of state police, containing the name, age, address, description, and signature of the person presenting the pistol for inspection, together with a full description of the pistol. The original of the certificate shall be delivered to the registrant. The duplicate of the certificate shall be mailed within 48 hours to the director of the department of state police and filed and indexed by the department and kept as a permanent official record. The triplicate of the certificate shall be retained and filed in the office of the sheriff, commissioner, or chief of police. This section does not apply to a wholesale or retail dealer in firearms who regularly engages in the business of selling pistols at retail, or to a person who holds a collection of pistols kept solely for the purpose of display as relics, curios, or antiques, and that are not made for modern ammunition or are permanently deactivated.

(2) A person who presents a pistol for a safety inspection under subsection (1) shall ensure that the pistol is unloaded and that the pistol is equipped with a trigger lock or other disabling mechanism or encased when the pistol is presented for inspection. A person who violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $50.00.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16758;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—CL 1948, 28.429;—Am. 1957, Act 259, Eff. Sept. 27, 1957;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1986, Act 262, Imd. Eff. Dec. 9, 1986;—Am. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 1996, Act 169, Imd. Eff. Apr. 18, 1996.

28.429a Basic pistol safety review board; creation; membership; chair; duties.

Sec. 9a. (1) The basic pistol safety review board is created in the department of state police. The board shall consist of the following members:

(a) The director of the department of state police or his or her representative.

(b) The director of the department of natural resources or his or her representative.

(c) One person appointed by the governor with the advice and consent of the senate representing the interests of organizations involved in shooting sports.

(d) One person appointed by the governor with the advice and consent of the senate representing the interests of a statewide conservation organization.

(e) One person appointed by the governor with the advice and consent of the senate representing the interests of the public.

(2) The director of the department of state police shall chair the basic pistol safety board.

(3) The basic pistol safety board shall do all of the following:

(a) Approve a pamphlet on basic pistol safety for distribution to entities authorized to issue licenses under section 2.

(b) Approve basic pistol safety questionnaires for distribution to entities authorized to issue licenses under section 2. The board shall approve a questionnaire under this subdivision only if both of the following circumstances exist:

(*i*) The questionnaire only addresses material covered in the pamphlet approved pursuant to subdivision (a).

(*ii*) The questionnaire reasonably examines the knowledge of pistol safety of individuals who are required to answer questionnaires.

(c) Upon the expiration of 90 days after the effective date of the amendatory act that added this section, provide the department of state police with master copies of the basic pistol safety pamphlet and basic pistol safety questionnaires for printing by the department of state police and for distribution by the department of state police to entities authorized to issue licenses under section 2.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

28.429b Basic pistol safety pamphlet and questionnaires; printing and distribution.

Sec. 9b. The department of state police shall print the basic pistol safety pamphlet and basic pistol safety questionnaires approved by the basic pistol safety review board, and shall distribute the pamphlet and the questionnaires free of charge to entities authorized to issue licenses under section 2. The department of state police shall distribute copies of the basic pistol safety pamphlet and the questionnaires within 90 days after the department of state police receives the master copies from the basic pistol safety review board.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

28.429c Distribution of basic pistol safety pamphlet.

Sec. 9c. Entities authorized to issue licenses under section 2 shall distribute a basic pistol safety pamphlet received by that entity from the department of state police free of charge to each person who requests a copy of the pamphlet.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

28.429d Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to forfeiture of firearm.

28.430 Theft of firearm; report required; failure to report theft as civil violation; penalty.

Sec. 10. (1) A person who owns a firearm shall, within 5 days after he or she knows his or her firearm is stolen, report the theft to a police agency having jurisdiction over that theft.

(2) A person who fails to report the theft of a firearm as required under subsection (1) is responsible for a civil violation and may be fined not more than $500.00.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

Compiler's note: Former sections 10 and 11 were not compiled.

28.431 Review of criminal histories; report; rules.

Sec. 11. Before January 1, 1995, the director of the state police shall, if sufficient money is appropriated by the legislature, by rules promulgated by the department of state police, provide a system for the expeditious review of the criminal histories of individuals who purchase firearms and file with the legislature a written report of his or her findings and conclusions.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

28.432 Inapplicability of §§ 28.422 and 28.429.

Sec. 12. Sections 2 and 9 do not apply to any of the following:

(a) A police or correctional agency of the United States or of this state or any subdivision of this state.

(b) The United States army, air force, navy, or marine corps.

(c) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(d) The national guard, armed forces reserves, or other duly authorized military organization.

(e) A member of an entity or organization described in subdivisions (a) to (d) for a pistol while engaged in the course of his or her duties with that entity or while going to or returning from those duties.

(f) A United States citizen holding a license to carry a pistol concealed upon his or her person issued by another state.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms or a licensed dealer.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16761;—CL 1948, 28.432;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 2000, Act 381, Eff. July 1, 2001.

28.432a Persons to whom requirements inapplicable.

Sec. 12a. The requirements of this act for obtaining a license to carry a concealed pistol do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except a township constable.

(b) A constable who is trained and certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, while engaged in his or her official duties or going to or coming from his or her official duties, and who is regularly employed and paid by a political subdivision of this state.

(c) A person regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to carry a concealed pistol during the performance of his or her duties or while going to or returning from his or her duties.

(d) A member of the United States army, air force, navy, or marine corps while carrying a concealed pistol in the line of duty.

(e) A member of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a concealed pistol for purposes of that military organization.

(f) A resident of another state who is licensed by that state to carry a concealed pistol.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.

(h) A person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

History: Add. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1976, Act 102, Imd. Eff. Apr. 27, 1976;—Am. 1978, Act 282, Imd. Eff. July 6, 1978;—Am. 1978, Act 519, Imd. Eff. Dec. 19, 1978;—Am. 2000, Act 381, Eff. July 1, 2001.

28.432b Signaling devices to which §§ 28.422 and 28.429 inapplicable.

Sec. 12b. Sections 2 and 9 do not apply to a signaling device which is approved by the United States coast guard pursuant to regulations issued under section 4488 of the Revised Statutes of the United States, 46 U.S.C. 481, or under section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

History: Add. 1982, Act 182, Eff. July 1, 1982.

28.432c Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to license renewal.

28.433 Unlawful possession of weapon; complaint, search warrant, seizure.

Sec. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this act.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16762;—CL 1948, 28.433.

28.434 Unlawful possession; weapon forfeited to state; disposal; immunity.

Sec. 14. (1) Subject to section 5g, all pistols, weapons, or devices carried or possessed contrary to this act are declared forfeited to the state, and shall be turned over to the director of the department of state police or his or her designated representative, for disposal under this section.

(2) The director of the department of state police shall dispose of firearms under this section by 1 of the following methods:

(a) By conducting a public auction in which firearms received under this section may be purchased at a sale conducted in compliance with section 4708 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4708, by individuals authorized by law to possess those firearms.

(b) By destroying them.

(c) By any other lawful manner prescribed by the director of the department of state police.

(3) Before disposing of a firearm under this section, the director of the department of state police shall do both of the following:

(a) Determine through the law enforcement information network whether the firearm has been reported lost or stolen. If the firearm has been reported lost or stolen and the name and address of the owner can be determined, the director of the department of state police shall provide 30 days' written notice of his or her intent to dispose of the firearm under this section to the owner, and allow the owner to claim the firearm within that 30-day period if he or she is authorized to possess the firearm.

(b) Provide 30 days' notice to the public on the department of state police website of his or her intent to dispose of the firearm under this section. The notice shall include a description of the firearm and shall state the firearm's serial number, if the serial number can be determined. The department of state police shall allow the owner of the firearm to claim the firearm within that 30-day period if he or she is authorized to possess the firearm. The 30-day period required under this subdivision is in addition to the 30-day period required under subdivision (a).

(4) The department of state police is immune from civil liability for disposing of a firearm in compliance with this section.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16763;—Am. 1943, Act 113, Eff. July 30, 1943;—CL 1948, 28.434;—Am. 2000, Act 381, Eff. July 1, 2001.

28.435 Sale of firearms by federally licensed firearms dealer; sale of trigger lock or secured container; exceptions; brochure or pamphlet; statement of compliance; notice of liability; action by political subdivision against firearm or ammunition producer prohibited; rights of state attorney general; exceptions; effect of subsections (9) through (11); violation; penalties; definitions.

Sec. 15. (1) Except as provided in subsection (2), a federally licensed firearms dealer shall not sell a firearm in this state unless the sale includes 1 of the following:

(a) A commercially available trigger lock or other device designed to disable the firearm and prevent the discharge of the firearm.

(b) A commercially available gun case or storage container that can be secured to prevent unauthorized access to the firearm.

(2) This section does not apply to any of the following:

(a) The sale of a firearm to a police officer or a police agency.

(b) The sale of a firearm to a person who presents to the federally licensed firearms dealer 1 of the following:

(*i*) A trigger lock or other device designed to disable the firearm and prevent the discharge of the firearm together with a copy of the purchase receipt for the federally licensed firearms dealer to keep. A separate trigger lock or device and a separate purchase receipt shall be required for each firearm purchased.

(*ii*) A gun case or storage container that can be secured to prevent unauthorized access to the firearm together with a copy of the purchase receipt for the federally licensed firearms dealer to keep. A separate gun case or storage container and a separate purchase receipt shall be required for each firearm purchased.

(c) The sale of an antique firearm. As used in this subdivision, "antique firearm" means that term as defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(d) The sale or transfer of a firearm if the seller is not a federally licensed firearms dealer.

(3) A federally licensed firearms dealer shall not sell a firearm in this state unless the firearm is accompanied with, free of charge, a brochure or pamphlet that includes safety information on the use and storage of the firearm in a home environment.

(4) Upon the sale of a firearm, a federally licensed firearms dealer shall sign a statement and require the purchaser to sign a statement stating that the sale is in compliance with subsections (1), (2), and (3).

(5) A federally licensed firearms dealer shall retain a copy of the signed statements prescribed in subsection (4) and, if applicable, a copy of the receipt prescribed in subsection (2)(b), for at least 6 years.

(6) A federally licensed firearms dealer in this state shall post in a conspicuous manner at the entrances, exits, and all points of sale on the premises where firearms are sold a notice that says the following: "You may be criminally and civilly liable for any harm caused by a person less than 18 years of age who lawfully gains unsupervised access to your firearm if unlawfully stored.".

(7) A federally licensed firearms dealer is not liable for damages arising from the use or misuse of a firearm if the sale complies with this section, any other applicable law of this state, and applicable federal law.

(8) This section does not create a civil action or liability for damages arising from the use or misuse of a firearm or ammunition for a person, other than a federally licensed firearms dealer, who produces a firearm or ammunition.

(9) Subject to subsections (10) to (12), a political subdivision shall not bring a civil action against any person who produces a firearm or ammunition. The authority to bring a civil action under this section is reserved exclusively to the state and can be brought only by the attorney general. The court shall award costs and reasonable attorney fees to each defendant named in a civil action filed in violation of this subsection.

(10) Subject to subsection (11), subsection (9) does not prohibit a civil action by a political subdivision based on 1 or more of the following, which the court shall narrowly construe:

(a) A breach of contract, other contract issue, or an action based on a provision of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, in which the political subdivision is the purchaser and owner of the firearm or ammunition.

(b) Expressed or implied warranties arising from the purchase of a firearm or ammunition by the political subdivision or the use of a firearm or ammunition by an employee or agent of the political subdivision.

(c) A product liability, personal injury, or wrongful death action when an employee or agent or property of the political subdivision has been injured or damaged as a result of a defect in the design or manufacture of the firearm or ammunition purchased and owned by the political subdivision.

(11) Subsection (10) does not allow an action based on any of the following:

(a) A firearm's or ammunition's inherent potential to cause injury, damage, or death.

(b) Failure to warn the purchaser, transferee, or user of the firearm's or ammunition's inherent potential to cause injury, damage, or death.

(c) Failure to sell with or incorporate into the product a device or mechanism to prevent a firearm or ammunition from being discharged by an unauthorized person unless specifically provided for by contract.

(12) Subsections (9) through (11) do not create a civil action.

(13) Subsections (9) through (11) are intended only to clarify the current status of the law in this state, are remedial in nature, and, therefore, apply to a civil action pending on the effective date of this act.

(14) Beginning September 1, 2000, a person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivision (b) or (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second conviction, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(c) For a third or subsequent conviction, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(15) As used in this section:

(a) "Federally licensed firearms dealer" means a person licensed under section 923 of title 18 of the United States Code, 18 U.S.C. 923.

(b) "Firearm or ammunition" includes a component of a firearm or ammunition.

(c) "Person" means an individual, partnership, corporation, association, or other legal entity.

(d) "Political subdivision" means a county, city, village, township, charter township, school district, community college, or public university or college.

(e) "Produce" means to manufacture, construct, design, formulate, develop standards for, prepare, process, assemble, inspect, test, list, certify, give a warning or instructions regarding, market, sell, advertise, package, label, distribute, or transfer.

History: Add. 2000, Act 265, Imd. Eff. June 29, 2000.

EXPLOSIVES ACT OF 1970
Act 202 of 1970

AN ACT to regulate the possession, handling, storage, control, use, sale, purchase, transfer, transportation or other disposition of explosives; to provide for permits in connection therewith; and to provide penalties.

History: 1970, Act 202, Eff. Apr. 1, 1971.

The People of the State of Michigan enact:

29.41 Explosives; short title.

Sec. 1. This act shall be known and may be cited as the "explosives act of 1970".

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.42 Definitions.

Sec. 2. As used in this act:

(a) "Explosive" means blasting powder, nitroglycerine, dynamite, TNT and any other form of high explosive, blasting material, fuse other than an electric circuit breaker, detonator and other detonating agent, a chemical compound or mechanical mixture containing oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion or other means of detonation of the compound or mixture or any part thereof may result in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property. An explosive does not include gasoline, kerosene, naphtha, turpentine, butane, propane, wet nitrocellulose or wet nitrostarch containing moisture in excess of 20%, or wet picric acid containing moisture in excess of 10%; or manufactured article such as fixed ammunition for small arms, fire crackers, safety flares or matches containing an explosive in such limited quantity that the collective and simultaneous detonation thereof is incapable of resulting in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property.

(b) "Dealer" means a person, not a manufacturer, engaged in the business of buying and selling explosives.

(c) "Person" means an individual, firm, partnership, corporation, association or other legal entity but does not include an officer of a law enforcement agency or of a fire department, while acting in his official capacity.

(d) "Director" means the director of the department of state police.

(e) "Issuing officer" means an officer of a local police or sheriff's department, or a designated officer of the state police.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.43 Disposition of explosives; permit required, exceptions.

Sec. 3. A person shall not handle, store, control, use, sell, purchase, transfer, transport or otherwise dispose of an explosive unless he has applied for, obtained and has on his person a valid permit as prescribed by this act, except that:

(a) This section does not apply to an employee, or agent other than an independent contractor, acting in the scope and course of his employment or agency and under the supervision of his employer or principal, where the employer or principal has applied for and obtained a valid permit.

(b) A person need not have the permit on his person where he is only storing explosives.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.44 Permit; application, contents, fee.

Sec. 4. A permit may be issued by an issuing officer upon the completion in writing by the applicant on forms prescribed and provided by the director, of an application, the content of which shall at least include the (a) name, (b) address, (c) date of birth, (d) social security number, and (e) signature of the applicant. The applicant shall also indicate in writing the intended use of the explosive for which the permit is to be issued, and whether he has been convicted of a felony within 5 years. A fee of $1.00 shall accompany each application. All fees shall be retained by the local law enforcement office as full compensation for processing the permit.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.45 Permit; age of applicant, mental competence.

Sec. 5. A permit shall not be issued to an applicant who has not, on or before the date of application, attained the age of 18 years or who has been duly adjudged insane, unless subsequently restored by court order to full mental competency and capacity.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.46 Permit; copies, disposition; duration.

Sec. 6. A permit shall be issued in triplicate; the original shall be forwarded to the director, a copy shall be furnished to the applicant on the same day as the application is filed and approved and a copy shall remain on file with the issuing officer. Unless subsequently revoked, a permit is valid for 1 year after the date of issuance.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.47 Permit; refusal, grounds; notice.

Sec. 7. A permit may be refused to an applicant where the issuing officer has reasonable cause to believe that granting the permit would constitute a substantial and immediate danger to the public health, safety and welfare. Notice of refusal to issue a permit shall be given the applicant on the same day his application is made. Within 3 days thereafter, the issuing officer shall send to the applicant, by certified mail, a copy of the notice of refusal together with a statement in writing of the reason for the refusal.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.48 Permit; refusal, application for review; hearing, order of determination; judicial review.

Sec. 8. Within 15 days after the notice of refusal, the applicant may request, in writing on a form prescribed and provided by the director, a review by the director of the refusal. Within 30 days after receipt by the director of the application for review, he, or his duly authorized representative, shall conduct a hearing on the refusal and shall issue an order of determination on the review. The director shall send, by certified mail, to the applicant and to the issuing officer, a copy of his order of determination. The director's order of determination shall be reviewable, upon timely appeal, by the circuit court for the county of the applicant's residence or by the circuit court for the county of Ingham.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.49 Permit; revocation, grounds; procedures.

Sec. 9. An issuing officer may revoke a permit when he has reasonable cause to believe that its possession by the holder constitutes a substantial and immediate danger to the public health, safety and welfare. The procedures set forth in this act applicable to the refusal of issuance of a permit shall apply to revocation.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.50 Permanent permit; issuance.

Sec. 10. The director may in his discretion issue a permanent permit to persons of known moral character, who have constant legitimate use of explosives.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.51 Dealer; records, contents, disposition; duty as to permit.

Sec. 11. (1) A dealer shall keep and maintain such records on such forms as are prescribed and provided by the director, which records shall include (a) an amount of each sale, transfer or other disposition of explosives by him, (b) the date thereof, the name, age, address and permit number of the purchaser or transferee, and (c) the amount and type of explosive sold or transferred. The records shall be forwarded to the director on the last day of each month.

(2) A dealer or person shall not sell or otherwise transfer an explosive without first ascertaining that the purchaser or transferee has on his person and displays a valid permit.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.52 Permit; nonassignability.

Sec. 12. A person holding a valid permit shall not assign or transfer it to any other person.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.53 Explosives; storage.

Sec. 13. All explosives, other than those in use or transit as permitted by this act, shall be stored in a locked building or out building which shall be rigidly fixed to its base or foundation. Nothing in this section shall be construed to abrogate R28.131 through R28.200 of the Michigan administrative code.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.54 Explosives; handling while intoxicated prohibited.

Sec. 14. A person shall not handle an explosive while under the influence of intoxicating liquor or narcotic.

History: 1970, Act 202, Eff. Apr. 1, 1971.

29.55 Violation of act; penalty.

Sec. 15. A person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than $500.00 or imprisoned for not more than 1 year, or both.

History: 1970, Act 202, Eff. Apr. 1, 1971.

EMERGENCY MANAGEMENT ACT (EXCERPT)
Act 390 of 1976

AN ACT to provide for planning, mitigation, response, and recovery from natural and human-made disaster within this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; to repeal certain acts and parts of acts; and to repeal certain parts of the act.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

The People of the State of Michigan enact:

30.405 Additional powers of governor; disobeying or interfering with rule, order, or directive as misdemeanor.

Sec. 5. (1) In addition to the general authority granted to the governor by this act, the governor may, upon the declaration of a state of disaster or a state of emergency do 1 or more of the following:

(a) Suspend a regulatory statute, order, or rule prescribing the procedures for conduct of state business, when strict compliance with the statute, order, or rule would prevent, hinder, or delay necessary action in coping with the disaster or emergency. This power does not extend to the suspension of criminal process and procedures.

(b) Utilize the available resources of the state and its political subdivisions, and those of the federal government made available to the state, as are reasonably necessary to cope with the disaster or emergency.

(c) Transfer the direction, personnel, or functions of state departments, agencies, or units thereof for the purpose of performing or facilitating emergency management.

(d) Subject to appropriate compensation, as authorized by the legislature, commandeer or utilize private property necessary to cope with the disaster or emergency.

(e) Direct and compel the evacuation of all or part of the population from a stricken or threatened area within the state if necessary for the preservation of life or other mitigation, response, or recovery activities.

(f) Prescribe routes, modes, and destination of transportation in connection with an evacuation.

(g) Control ingress and egress to and from a stricken or threatened area, removal of persons within the area, and the occupancy of premises within the area.

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(i) Provide for the availability and use of temporary emergency housing.

(j) Direct all other actions which are necessary and appropriate under the circumstances.

(2) A person who willfully disobeys or interferes with the implementation of a rule, order, or directive issued by the governor pursuant to this section is guilty of a misdemeanor.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

THE FOURTH CLASS CITY ACT (EXCERPT)
Act 215 of 1895

AN ACT to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto; to validate such prior amendments and certain prior actions taken and bonds issued by such cities; and to prescribe penalties and provide remedies.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1931, Act 223, Eff. Sept. 18, 1931;—Am. 1954, Act 110, Eff. Aug. 13, 1954;—Am. 1962, Act 161, Imd. Eff. May 10, 1962;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974;—Am. 1983, Act 45, Imd. Eff. May 12, 1983;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

CHAPTER XI—GENERAL POWERS OF CITY CORPORATIONS.

91.1 General powers. (EXCERPT)

Sec. 1. (1) A city incorporated under the provisions of this act has, and the council may pass ordinances relating to, the following general powers:

(y) To regulate the keeping, selling, and using of dynamite, gunpowder, firecrackers and fireworks, and other explosive or combustible materials; to regulate the exhibition of fireworks and the discharge of firearms; and to restrain the making of fires in the streets and other open spaces in the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3107;—CL 1915, 3021;—CL 1929, 1945;—CL 1948, 91.1;—Am. 1994, Act 19, Eff. May 1, 1994.

FIREARMS AND AMMUNITION
Act 319 of 1990

AN ACT to prohibit local units of government from imposing certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms.

History: 1990, Act 319, Eff. Mar. 28, 1991.

The People of the State of Michigan enact:

123.1101 Definitions.

Sec. 1. As used in this act:

(a) "Local unit of government" means a city, village, township, or county.

(b) "Pistol" means that term as defined in section 222 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.222 of the Michigan Compiled Laws.

History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1102 Regulation of pistols or other firearms.

Sec. 2. A local unit of government shall not impose special taxation on, enact or enforce any ordinance or regulation pertaining to, or regulate in any other manner the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms, except as otherwise provided by federal law or a law of this state.

History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1103 Permissible prohibitions or regulation.

Sec. 3. This act does not prohibit a local unit of government from doing either of the following:

(a) Prohibiting or regulating conduct with a pistol or other firearm that is a criminal offense under state law.

(b) Prohibiting or regulating the transportation, carrying, or possession of pistols and other firearms by employees of that local unit of government in the course of their employment with that local unit of government.

History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1104 Prohibiting discharge of pistol or other firearm.

Sec. 4. This act does not prohibit a city or a charter township from prohibiting the discharge of a pistol or other firearm within the jurisdiction of that city or charter township.

History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1105 Conditional effective date.

Sec. 5. This act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

(a) House Bill No. 6009.

(b) House Bill No. 6010.

History: 1990, Act 319, Eff. Mar. 28, 1991.

Compiler's note: House Bill No. 6009, referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 320, Eff. Mar. 28, 1991.

House Bill No. 6010, also referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 321, Eff. Mar. 28, 1991.

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

AN ACT to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1957, Act 281, Eff. Sept. 27, 1957;—Am. 1978, Act 507, Eff. July 1, 1979;—Am. 1979, Act 66, Eff. Aug. 1, 1979;—Am. 1980, Act 137, Imd. Eff. May 29, 1980;—Am. 1980, Act 518, Eff. Mar. 31, 1981;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1987, Act 154, Eff. Dec. 1, 1987;—Am. 1988, Act 255, Eff. Oct. 1, 1989;—Am. 1991, Act 98, Imd. Eff. Aug. 9, 1991;—Am. 2000, Act 282, Imd. Eff. July 10, 2000;—Am. 2000, Act 408, Eff. Mar. 28, 2001.

Compiler's note: In OAG 6480, issued November 23, 1987, the Attorney General stated: "It is my opinion, therefore, that 1987 PA 154, which fixes maximum speed limit on certain state highways, becomes effective November 29, 1987."

The People of the State of Michigan enact:

CHAPTER VI.

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

OPERATION OF BICYCLES, MOTORCYCLES AND TOY VEHICLES

257.726c Duly authorized agent of county road commission; shoulder patch required; firearm.

Sec. 726c. (1) A duly authorized agent of a county road commission when enforcing sections 215, 255, 631(1), 717, 719, 719a, 720, 722, 724, 725, and 726 shall wear a shoulder patch which shall be clearly visible and shall identify the branch of government represented.

(2) A duly authorized agent of a county road commission shall not carry a firearm while enforcing sections 215, 255, 631(1), 717, 719, 719a, 720, 722, 724, 725, and 726 unless he or she meets the requirements of the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws.

History: Add. 1984, Act 74, Imd. Eff. Apr. 18, 1984;—Am. 1989, Act 173, Imd. Eff. Aug. 22, 1989.

WILD LIFE SANCTUARIES (EXCERPT)
Act 184 of 1929

AN ACT to provide for the protection and increase of desirable forms of wild life; for the establishment of wild life sanctuaries; for the maintenance and regulation thereof; to provide penalties for the violation of this act and the rules and regulations issued thereunder; and to repeal Act No. 360 of the Public Acts of 1913.

History: 1929, Act 184, Eff. Aug. 28, 1929.

The People of the State of Michigan enact:

317.204 Wild life sanctuaries; unlawful acts; predatory animals, birds; experiments.

Sec. 4. When lands have been so dedicated and posted as a state wild life sanctuary, the possession or carrying of firearms thereon, hunting or trapping thereon, or the killing or molestation of wild life on such lands by any person or by the owners or lessees thereof, or their agents, shall be unlawful during the period of such dedication: Provided, That the director of conservation may issue permits for the taking on any dedicated lands of predatory animals and birds and such other birds and animals as may require control or as may be appropriate in connection with experiments in wild life management or for other purposes not inconsistent with the original intent of the dedication.

History: 1929, Act 184, Eff. Aug. 28, 1929;—CL 1929, 6116;—CL 1948, 317.204.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPTS)
Act 451 of 1994

AN ACT to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 434, Imd. Eff. Dec. 2, 1996.

The People of the State of Michigan enact:

ARTICLE I GENERAL PROVISIONS

PART 16 ENFORCEMENT OF LAWS FOR PROTECTION OF WILD BIRDS, WILD ANIMALS, AND FISH

324.1607 Volunteer conservation officers.

Sec. 1607. (1) The department may appoint persons to function as volunteer conservation officers. A volunteer conservation officer shall be appointed to assist a conservation officer in the performance of the conservation officer's duties. While a volunteer conservation officer is assisting a conservation officer, the volunteer conservation officer has the same immunity from civil liability as a conservation officer, and shall be treated in the same manner as an officer or employee under section 8 of Act No. 170 of the Public Acts of 1964, being section 691.1408 of the Michigan Compiled Laws. The volunteer conservation officer shall not carry a firearm while functioning as a volunteer conservation officer.

(2) As used in this section, "volunteer" means a person who provides his or her service as a conservation officer without pay.

(3) To qualify as a volunteer conservation officer, a person shall meet all of the following qualifications:

(a) Have no felony convictions. In determining whether the person has a felony conviction, the person shall present documentation to the department that a criminal record check through the law enforcement information network has been conducted by a law enforcement agency.

(b) Have completed 10 hours of training conducted by the law enforcement division of the department.

(4) Upon compliance with subsection (3) and upon recommendation by the department, a person may be appointed as a volunteer conservation officer. An appointment shall be valid for 3 years. At the completion of the 3 years, the volunteer conservation officer shall comply with the requirements of this section in order to be reappointed as a volunteer conservation officer.

(5) A volunteer conservation officer's appointment is valid only if the volunteer conservation officer is on assignment with, and in the company of, a conservation officer.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

ARTICLE III NATURAL RESOURCES MANAGEMENT

CHAPTER 2: MANAGEMENT OF RENEWABLE RESOURCES

SUBCHAPTER 1: WILDLIFE

WILDLIFE CONSERVATION

PART 401 WILDLIFE CONSERVATION

324.40102 Definitions; A to F. (EXCERPT)

(10) "Firearm" means a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of a spring or air or gas.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 1999, Act 66, Imd. Eff. June 25, 1999;—Am. 2000, Act 347, Imd. Eff. Dec. 28, 2000.

324.40104 Definitions; T, V.

Sec. 40104. (1) "Take" means to hunt with any weapon, dog, raptor, or other wild or domestic animal trained for that purpose; kill; chase; follow; harass; harm; pursue; shoot; rob; trap; capture; or collect animals, or to attempt to engage in such an activity.

(2) "Transport" means to carry or ship animals within this state or to points outside this state.

(3) "Trap" means taking or attempting to take animals by means of a trap or other device designed to kill or capture animals.

(4) "Vehicle" means every device in, upon, or by which any person or property is or may be transported, except devices exclusively moved by human power.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.40111 Taking animal from in or upon vehicle; transporting or possessing firearm in or upon vehicle; transporting bow in or upon vehicle; written permission to hunt or discharge firearm.

Sec. 40111. (1) Except as otherwise provided in this part or in a department order authorized under section 40107, a person shall not take an animal from in or upon a vehicle.

(2) Except as otherwise provided in this part or in a department order authorized under section 40107, a person shall not transport or have in possession a firearm in or upon a vehicle, unless the firearm is unloaded in both barrel and magazine and enclosed in a case, carried in the trunk of a vehicle, or unloaded in a motorized boat.

(3) Except as otherwise provided in this part, a person shall not transport or have in possession a bow in or upon a vehicle, unless the bow is unstrung, enclosed in a case, or carried in the trunk of a vehicle.

(4) A person shall not hunt or discharge a firearm within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.40113 Artificial light.

Sec. 40113. (1) Except as otherwise provided in a department order authorized under section 40107 for a specified animal, a person shall not use an artificial light in taking game or in an area frequented by animals; throw or cast the rays of a spotlight, headlight, or other artificial light in a field, woodland, or forest while having a bow or firearm or other weapon capable of shooting a projectile in the person's possession or under the person's control unless otherwise permitted by law. A licensed hunter may use an artificial light 1 hour before and 1 hour after shooting hours while in possession of any unloaded firearm or bow and traveling afoot to and from the licensed hunter's hunting location.

(2) Except as otherwise provided in a department order authorized under section 40107, a person shall not throw, cast, or cause to be thrown or cast, the rays of an artificial light from December 1 to October 31 between the hours of 11 p.m. and 6 a.m. for the purpose of locating animals. Except as otherwise permitted by law or an order of the department, from November 1 to November 30, a person shall not throw, cast, or cause to be thrown or cast, the rays of a spotlight, headlight, or other artificial light for the purpose of locating animals. This subsection does not apply to any of the following:

(a) A peace officer while in the performance of the officer's duties.

(b) A person operating an emergency vehicle in an emergency.

(c) An employee of a public or private utility while working in the scope of his or her employment.

(d) A person operating a vehicle with headlights in a lawful manner upon a street, highway, or roadway.

(e) A person using an artificial light to identify a house or mailbox number.

(f) The use of artificial lights used to conduct a census by the department.

(g) A person using an artificial light from November 1 to November 30 on property that is owned by that person or by a member of that person's immediate family.

(3) The operator of a vehicle from which the rays of an artificial light have been cast in a clear attempt to locate game shall immediately stop the vehicle upon the request of a uniformed peace officer or when signaled by a peace officer with a flashing signal light or siren from a marked patrol vehicle.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

SHOOTING AND HUNTING GROUNDS

PART 419 HUNTING AREA CONTROL

324.41901 Regulation and prohibitions in certain areas; powers of department; area closures; hearings, investigations, studies, and statement of facts; regulations.

Sec. 41901. (1) In addition to all of the department powers, in the interest of public safety and the general welfare, the department may regulate and prohibit hunting, and the discharge of firearms and bow and arrow, as provided in this part, on those areas established under this part where hunting or the discharge of firearms or bow and arrow may or is likely to kill,

injure, or disturb persons who can reasonably be expected to be present in the areas or to destroy or damage buildings or personal property situated or customarily situated in the areas or will impair the general safety and welfare. In addition, the department may determine and define the boundaries of the areas. Areas or parts of areas may be closed throughout the year. The department, in furtherance of safety, may designate areas where hunting is permitted only by prescribed methods and weapons that are not inconsistent with law. Whenever the governing body of any political subdivision determines that the safety and well-being of persons or property are endangered by hunters or discharge of firearms or bow and arrows, by resolution it may request the department to recommend closure of the area as may be required to relieve the problem. Upon receipt of a certified resolution, the department shall establish a date for a public hearing in the political subdivision, and the requesting political authority shall arrange for suitable quarters for the hearing. The department shall receive testimony on the nature of the problems resulting from hunting activities and firearms use from all interested parties on the type, extent, and nature of the closure, regulations, or controls desired locally to remedy these problems.

(2) Upon completion of the public hearing, the department shall cause such investigations and studies to be made of the area as it considers appropriate and shall then make a statement of the facts of the situation as found at the hearing and as a result of its investigations. The department shall then prescribe regulations as are necessary to alleviate or correct the problems found.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.41904 Prohibitions against discharge of firearms; exceptions.

Sec. 41904. Any prohibition against discharge of firearms made under authority of this part does not apply to peace officers or members of any branch of the armed forces in the discharge of their proper duties. The department may authorize the use of firearms to prevent or control the depredations of birds or animals in situations where significant damages are being caused by wildlife.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

PART 421 DOG TRAINING AREAS

324.42102 Training dogs; conditions; rules; prohibitions.

Sec. 42102. Permit holders may at any time during the year train their own dogs or the dogs of other persons on land described in section 42101 or permit others to do so under conditions that are mutually agreed upon and under rules as may be considered expedient by the department. Hunting or the carrying or possession of firearms other than a pistol or revolver with blank cartridges at any time of year on lands described in section 42101 is unlawful.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

SUBCHAPTER 2: HUNTING AND FISHING LICENSES

PART 435 HUNTING AND FISHING LICENSING

324.43502 Definitions; A to C.

Sec. 43502. (1) “Amphibian” means any frog, toad, salamander, or any other member of the class amphibia.

(2) “Aquatic species” means any fish, reptile, amphibian, mollusk, aquatic insect, or crustacea or part thereof.

(3) “Bow” means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer’s muscles.

(4) “Crossbow” means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string that is controlled by a mechanical or electric trigger and has a working safety and a draw weight of 100 pounds or more.

(5) “Crustacea” means any freshwater crayfish, shrimp, or prawn of the order decapoda.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

324.43503 Definitions; F.

Sec. 43503. (1) “Fish” means all species of fish.

(2) “Fishing” means the pursuing, capturing, catching, killing, or taking of fish, and includes attempting to pursue, capture, catch, kill, or take fish.

(3) “Firearm” means a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling BB’s not exceeding .177 caliber by means of a spring or air or gas.

(4) “Firearm deer season” means any period in which deer may be lawfully hunted with a firearm.

(5) "Fur-bearing animals" includes badger, beaver, bobcat, coyote, fisher, fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, skunk, weasel, and wolf.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.43510 Carrying or transporting firearm, slingshot, bow and arrow, crossbow or trap; license required.

Sec. 43510. A person shall not carry or transport a firearm, slingshot, bow and arrow, crossbow, or a trap while in any area frequented by wild animals unless that person has in his or her possession a license as required under this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

324.43511 Deer or elk season; transporting or possessing shotgun or rifle; license required.

Sec. 43511. During the open season for the taking of deer or elk with a firearm, other than the muzzle-loading deer season, a person shall not transport or possess a shotgun with buckshot, slug load, ball load, or cut shell or a rifle other than a .22 caliber rim fire, unless the person has in his or her possession a license to hunt deer or elk with a firearm.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.43513 Carrying, transporting, or possessing firearm, bow and arrow, or crossbow; hunting license not required; carrying or possessing unloaded weapon.

Sec. 43513. (1) A person may carry, transport, or possess a firearm, a bow and arrow, or a crossbow without a hunting license while at or going to and from a recognized rifle or target range, trap, or skeet shooting ground, or archery range if the firearm or bow and arrow or crossbow, while being carried or transported, is as follows:

(a) The firearm is unloaded in both barrel and magazine and either enclosed in a case or carried in the trunk of a vehicle.

(b) The bow or crossbow is unstrung, enclosed in a case, or carried in the trunk of a vehicle.

(2) Regardless of whether the person has a license or it is open season for the taking of game, a person may carry, transport, possess or discharge a firearm, a bow and arrow, or a crossbow if all of the following apply:

(a) The person is not taking or attempting to take game but is engaged in 1 or more of the following activities:

(*i*) Target practice using an identifiable, artificially constructed target or targets.

(*ii*) Practice with silhouettes, plinking, skeet, or trap.

(*iii*) Sighting-in the firearm, bow and arrow, or crossbow.

(b) The person is, or is accompanied by or has the permission of, either of the following:

(*i*) The owner of the property on which the activity under subdivision (a)(*i*), (*ii*), or (*iii*) is taking place.

(*ii*) The lessee of that property for a term of not less than 1 year.

(c) The owner or lessee of the property does not receive remuneration for the activity under subdivision (a)(*i*), (*ii*), or (*iii*).

(3) A person may carry or possess an unloaded weapon at any time if the person is traveling to or from or participating in an historical reenactment.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997;—Am. 1998, Act 129, Eff. Mar. 23, 1999.

324.43516 Carrying license; exhibiting license on demand; firearm deer license with unused kill tag; exhibiting tag on request.

Sec. 43516. (1) A person who has been issued a hunting, fishing, or fur harvester's license, when hunting, fishing, or trapping or in the possession of firearms or other hunting, fishing, or trapping apparatus in an area frequented by wild animals or fish, shall carry the license and shall exhibit the license upon the demand of a conservation officer, a law enforcement officer, or the owner or occupant of the land upon which the person is hunting, fishing, or trapping.

(2) A person shall not carry or possess afield a shotgun with buckshot, slug loads, or ball loads; a bow and arrow; a muzzle-loading rifle or black powder handgun; or a centerfire handgun or centerfire rifle during firearm deer season unless that person has a valid firearm deer license, with an unused kill tag, if issued, issued in his or her name.

(3) The unused kill tag, if issued, shall be exhibited upon the request of a conservation officer, a law enforcement officer, or the owner or occupant of the land upon which the person is hunting.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.43520 Hunting license; issuance to minor child; conditions; duties of issuing agent; proof of previous hunting experience or certification of completion of training in hunter safety; affidavit; information to be recorded.

Sec. 43520. (1) Subject to other requirements of this part, the department may issue a hunting license to a minor child subject to both of the following conditions:

(a) On application of a parent or legal guardian of the minor child, if the minor child, when hunting on lands upon which the minor child's parents are not regularly domiciled, is accompanied by the parent or guardian or another person authorized by the parent or guardian who is 17 years of age or older.

(b) Payment of the license fee.

(2) A license to hunt deer, bear, or elk with a firearm shall not be issued to a person who is less than 14 years of age.

(3) A license to hunt shall not be issued to a person who is less than 12 years of age.

(4) A person authorized to sell hunting licenses shall not issue a hunting license to a person born after January 1, 1960, unless the person presents proof of previous hunting experience in the form of a hunting license issued by this state, another state, a province of Canada, or another country or a certification of completion of training in hunter safety issued to the person by this state, another state, a province of Canada, or another country. If an applicant for a hunting license does not have proof of a previous license or a certification of completion of training in hunter safety, a person authorized to sell hunting licenses may issue a hunting license if the applicant submits a signed affidavit stating that they have completed a course in hunter safety or that they have possessed a hunting license previously. The person selling a hunting license shall record as specified by the department the form of proof of the previous hunting experience or certification of completion of hunter safety training presented by the applicant.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.43525a Combination deer license.

Sec. 43525a. (1) The department shall issue a combination deer license that authorizes a person to hunt deer both during the firearm deer seasons and the bow and arrow seasons, in compliance with the rules established for the respective deer hunting season. A combination deer license shall authorize the holder to take 2 deer in compliance with orders issued under part 401.

(2) The fee for a resident combination deer license is the total of the resident firearm deer license fee plus the resident bow and arrow deer license fee. The fee for a nonresident combination deer license is the total of the nonresident firearm deer license fee plus the nonresident bow and arrow deer license fee. The fee for a combination deer license for a resident or nonresident who is 12 years of age through 16 years of age shall be discounted 50% from the cost of the resident combination deer license.

(3) When advisable in managing deer, an order under part 401 may designate the kind of deer that may be taken and the geographic area in which any license issued under this section is valid.

(4) The department may issue kill tags with or as part of each combination deer license. Each kill tag shall bear the license number. A kill tag may also include space for other pertinent information required by the department. A kill tag, if issued, is part of the license and shall not be used more than 1 time.

(5) The combination deer license shall count as 2 licenses for the purposes of license fees under section 43536a, discounting under subsection 43521(c), and transmittal, deposit, and use of fees under sections 43554 and 43555.

(6) A senior citizen may obtain a senior combination deer license. The fee for a senior combination deer license shall be discounted at the same rate as provided in section 43535.

(7) A combination deer license issued to a person less than 14 years of age is valid only for taking deer with a bow and arrow, until the person is 14 years of age or older.

(8) Notwithstanding any other provision of this part, except for replacing lost or destroyed licenses, a person shall not apply for, obtain, or purchase any combination of firearm deer licenses, bow and arrow deer licenses, and combination deer licenses that would authorize the taking of more than 2 deer.

History: Add. 1998, Act 291, Imd. Eff. July 28, 1998.

324.43526 Firearm deer license; second firearm deer license; fees; orders; kill tag.

Sec. 43526. (1) A person shall not hunt deer during the firearm deer season without purchasing a firearm deer license. The fee for a resident firearm deer license is $13.00. Beginning in 1999, the fee for a resident firearm deer license is $14.00. Beginning in 2001, the fee for a resident firearm deer license is $15.00. The fee for a nonresident firearm deer license is $120.00. Beginning in 1999, the fee for a nonresident firearm deer license is $129.00. Beginning in 2001, the fee for a nonresident firearm deer license is $138.00. Where authorized by the department, a resident or nonresident may purchase a second firearm deer license in 1 season for the fee assessed under this subsection for the firearm deer license for which that person is eligible. However, a senior license discount is not available for the purchase of a second firearm deer license. The department may issue orders under part 401 designating the kind of deer that may be taken and the geographic area in which any license issued under this section is valid, when advisable in managing deer.

(2) The department may issue a kill tag with or as part of each deer license. The kill tag shall bear the license number. The kill tag may also include space for other pertinent information required by the department. The kill tag, if issued, is part of the license.

(3) The department shall charge a nonrefundable application fee not to exceed $4.00 for each person who applies for an antlerless deer license. Except as otherwise provided in section 43521, the fee for a resident antlerless deer license is $13.00. Beginning in 1999, the fee for a resident antlerless deer license is $14.00. Beginning in 2001, the fee for a resident antlerless deer license is $15.00. The fee for a nonresident antlerless deer license is $120.00. Beginning in 1999, the fee for a nonresident antlerless deer license is $129.00. Beginning in 2001, the fee for a nonresident antlerless deer license is $138.00.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 425, Imd. Eff. Nov. 25, 1996;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

324.43530 Hunting small game on shooting preserves; small game license; special shooting preserve license; fee; affixing date of issuance to license; rights of licensee.

Sec. 43530. (1) A person shall not hunt small game on shooting preserves licensed under part 417 without a small game license as provided in section 43523. However, instead of a small game license, a person may obtain a special shooting preserve license for a fee of $13.00. Beginning in 1999, the fee for a shooting preserve license is $14.00. Beginning in 2001, the fee for a shooting preserve license is $15.00.

(2) Each shooting preserve license shall have the date of issue affixed to the license and shall authorize the holder to hunt only on licensed shooting preserves and only for species for which the shooting preserve is licensed.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

324.43531 Fur harvester's license; fees; conditions to issuance of nonresident fur harvester's license; rights of licensee.

Sec. 43531. (1) Except as otherwise provided in section 43523(1), a person shall not trap or hunt fur-bearing animals without purchasing and possessing a fur harvester's license. The fee for a resident fur harvester's license is $13.00. Beginning in 1999, the fee for a resident fur harvester's license is $14.00. Beginning in 2001, the fee for a resident fur harvester's license is $15.00. The fee for a resident or nonresident who is 12 years of age through 16 years of age for a fur harvester's license shall be discounted 50% from the cost of the resident fur harvester's license.

(2) The department may issue a nonresident fur harvester's license to a nonresident of this state if the state, province, or country in which the nonresident applicant resides allows residents of this state to obtain equivalent hunting and trapping privileges in that state, province, or country. The fee for an eligible nonresident fur harvester's license is $150.00. Nonresident fur harvester's licenses shall not be sold or purchased prior to November 15 of each year.

(3) A person who holds a fur harvester's license may hunt fur-bearing animals during the season open to taking fur-bearing animals with firearms and may trap fur-bearing animals during the season open to trapping fur-bearing animals.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

324.43535 Senior license; fee; rights and privileges.

Sec. 43535. A resident of this state who is 65 years of age or older may obtain a senior small game license, a senior firearm deer license, a senior bow and arrow deer license, a senior bear hunting license, a senior wild turkey hunting license, or a senior fur harvester's license. The fee for each senior license shall be discounted 60% from the fee for the resident license.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

324.43543 Course of instruction in safe handling of firearms; instructors; registration; certificate of competency.

Sec. 43543. The department shall provide for a course of instruction in the safe handling of firearms and shall designate persons, without compensation, to serve as instructors and to award certificates. A person desiring to take the course of instruction shall register with an instructor certified by the department. Upon successful completion of the course, the person shall be issued a certificate of competency.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

324.43558 Prohibited conduct; misdemeanor; penalties; carrying firearm under influence of controlled substance or alcohol; effect of prior conviction; violation of subsection (1)(d) as misdemeanor.

Sec. 43558. (1) A person is guilty of a misdemeanor if the person does any of the following:

(a) Makes a false statement as to material facts for the purpose of obtaining a license or uses or attempts to use a license obtained by making a false statement.

(b) Affixes to a license a date or time other than the date or time issued.

(c) Issues a license without receiving and remitting the fee to the department.

(d) Without a license, takes or possesses a wild animal, wild bird, or aquatic species, except aquatic insects. This subdivision does not apply to a person less than 17 years of age who without a license takes or possesses aquatic species.

(e) Sells, loans, or permits in any manner another person to use the person's license or uses or attempts to use another person's license.

(f) Falsely makes, alters, forges, or counterfeits a sportcard or a hunting, fishing, or fur harvester's license or possesses an altered, forged, or counterfeited hunting, fishing, or fur harvester's license.

(g) Uses a tag furnished with a firearm deer license, bow and arrow deer license, bear hunting license, elk hunting license, or wild turkey hunting license more than 1 time, or attaches or allows a tag to be attached to a deer, bear, elk, or turkey other than a deer, bear, elk, or turkey lawfully killed by the person.

(h) Except as provided by law, makes an application for, obtains, or purchases more than 1 license for a hunting, fishing, or trapping season, not including a limited fishing license, second bow and arrow license, second firearm deer license, antlerless deer license, or other license specifically authorized by law, or if the applicant's license has been lost or destroyed.

(i) Applies for, obtains, or purchases a license during a time that the person is ineligible to secure a license.

(j) Knowingly obtains, or attempts to obtain, a resident or a senior license if that person is not a resident of this state.

(2) Except as provided in subsection (5), a person who violates subsection (1) shall be punished by imprisonment for not more than 90 days, or a fine of not less than $25.00 or more than $250.00 and the costs of prosecution, or both. In addition, the person shall surrender any license and license tag that was wrongfully obtained.

(3) A person licensed to carry a firearm under this part is prohibited from doing so while under the influence of a controlled substance or alcohol or a combination of a controlled substance and alcohol. A person who violates this subsection is guilty of a misdemeanor, punishable by imprisonment for 90 days, or a fine of $500.00, or both.

(4) An applicant for a license under this part who has previously been convicted of a violation of the game and fish laws of this state may be required to file an application with the department together with other information that the department considers expedient. The license may be issued by the department.

(5) A person who violates subsection (1)(d), upon a showing that the person was ineligible to secure a license pursuant to court order or other lawful authority, is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not less than $500.00 and not more than $2,500.00, or both, and the costs of prosecution.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

PART 441 GAME AND FISH LIFETIME LICENSE TRUST FUND

324.44102 Lifetime hunting or fishing licenses; fees; privileges, responsibilities, and duties; validity; comprehensive lifetime hunting and fishing license.

Sec. 44102. (1) From March 1, 1989 to February 28, 1990, certain lifetime hunting or fishing licenses may be purchased by a resident of this state as provided in this part, for the following fees:

(a) The fee for a lifetime small game license, equivalent to the license available annually pursuant to section 43523, is $220.00.

(b) The fee for a lifetime firearm deer license, equivalent to the license available annually to take 1 deer in a season pursuant to section 43526, is $285.00.

(c) The fee for a lifetime bow and arrow deer license, equivalent to the license available annually to take 1 deer in a season pursuant to section 43527, is $285.00.

(d) The fee for a lifetime sportsperson's license, equivalent to the license available pursuant to section 43521, is $1,000.00.

(e) The fee for a comprehensive lifetime hunting and fishing license is $1,025.00 and shall include all of the following:

(*i*) Resident small game license.

(*ii*) Resident firearm deer license.

(*iii*) Resident bow and arrow deer license.

(*iv*) Resident fishing license.

(*v*) Resident trout and salmon license.

(*vi*) Resident bear hunting license.

(*vii*) Waterfowl hunting license.

(*viii*) Resident fur harvester's license.

(f) The fee for a lifetime fishing license, equivalent to the resident annual fishing license issued pursuant to section 43532, is $220.00.

(g) The fee for a lifetime trout and salmon license, equivalent to the annual trout and salmon license issued pursuant to section 43532, is $220.00.

(2) A lifetime license issued pursuant to this section shall allow the holder of that license, throughout his or her lifetime, the same privileges, responsibilities, and duties as would the equivalent annual license or stamp issued pursuant to part 435. However, a lifetime license issued under this part does not guarantee the holder of that license the right to take game except in compliance with harvest regulations and license and permit conditions established for that species by the department.

(3) A lifetime license issued to a person who is a resident of this state at the time the license is purchased continues to be valid even if the holder of that license becomes a nonresident.

(4) A person who holds a lifetime sportsperson license may purchase a comprehensive lifetime hunting and fishing license for $25.00.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

SUBCHAPTER 3: FISHERIES

AQUATIC SPECIES

PART 487 SPORT FISHING

SUBPART II FISHING DEVICES

324.48703 Fishing devices; lines; hooks; tip-up, paddle, or similar device; spear; bow and arrow; hand net; dip net; setover net; trammel net; hoop net. (EXCERPT)

Sec. 48703. (1) A person shall not take, catch, or kill or attempt to take, catch, or kill a fish in the waters of this state with a spear or grab hook, snag hook, or gaff hook, by the use of jack or artificial light, by the use of a set or night line or a net or firearm or an explosive substance or combination of substances that have a tendency to kill or stupefy fish, or by any other means or device other than a single line or a single rod and line while held in the hand or under immediate control, and with a hook or hooks attached, baited with a natural or artificial bait while being used for still fishing, ice fishing, casting, or trolling for fish, which is a means of the fish taking the bait or hook in the mouth. A person shall not use more than 2 single lines or 2 single rods and lines, or a single line and a single rod and line, and shall not attach more than 4 hooks on all lines. For the purposes of this part, a hook is a single, double, or treble pointed hook. A hook, single, double, or treble pointed, attached to a manufactured artificial bait shall be counted as 1 hook. The department may designate waters where a treble hook and an artificial bait or lure having more than 1 single pointed hook shall not be used during the periods the department designates. In recognized smelt waters, any numbers of hooks, attached to a single line, may be used for the taking of smelt.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

SUBCHAPTER 4: FORESTS

FOREST FIRES

PART 515 PREVENTION AND SUPPRESSION OF FOREST FIRES

324.51504 Acts prohibited.

Sec. 51504. A person shall not do any of the following:

(a) Dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substances, or any other substance or thing that is likely to ignite a forest, brush, grass, or woods fire; or throw or drop from a moving vehicle any such object or substance.

(b) Set fire to, or cause or procure the setting on fire of, any flammable material on or adjacent to forest land without taking reasonable precautions both before and while lighting the fire and at all times after the lighting of the fire to prevent the escape of the fire; or leave the fire before it is extinguished.

(c) Set a backfire or cause a backfire to be set, except under the direct supervision of an established fire control agency or unless it can be established that the setting of the backfire is necessary for the purpose of saving life or valuable property.

(d) Destroy, break down, mutilate, or remove any fire control sign or poster erected by an established fire control agency in the administration of its lawful duties and authorities.

(e) Use or operate on or adjacent to forest land, a welding torch, tar pot, or other device that may cause a fire, without clearing flammable material surrounding the operation or without taking other reasonable precautions necessary to ensure against the starting and spreading of fire.

(f) Operate or cause to be operated any engine, other machinery, or powered vehicle not equipped with spark arresters or other suitable devices to prevent the escape of fire or sparks.

(g) Discharge or cause to be discharged a gun firing incendiary or tracer bullets or tracer charge onto or across any forest land.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

CHAPTER 4: RECREATION

SUBCHAPTER 1: RECREATION

RECREATIONAL TRESPASS

PART 731 RECREATIONAL TRESPASS

324.73102 Entering or remaining on property of another; consent; exceptions.

Sec. 73102. (1) Except as provided in subsection (4), a person shall not enter or remain upon the property of another person, other than farm property or a wooded area connected to farm property, to engage in any recreational activity or trapping on that property without the consent of the owner or his or her lessee or agent, if either of the following circumstances exists:

(a) The property is fenced or enclosed and is maintained in such a manner as to exclude intruders.

(b) The property is posted in a conspicuous manner against entry. The minimum letter height on the posting signs shall be 1 inch. Each posting sign shall be not less than 50 square inches, and the signs shall be spaced to enable a person to observe not less than 1 sign at any point of entry upon the property.

(2) Except as provided in subsection (4), a person shall not enter or remain upon farm property or a wooded area connected to farm property for any recreational activity or trapping without the consent of the owner or his or her lessee or agent, whether or not the farm property or wooded area connected to farm property is fenced, enclosed, or posted.

(3) On fenced or posted property or farm property, a fisherman wading or floating a navigable public stream may, without written or oral consent, enter upon property within the clearly defined banks of the stream or, without damaging farm products, walk a route as closely proximate to the clearly defined bank as possible when necessary to avoid a natural or artificial hazard or obstruction, including, but not limited to, a dam, deep hole, or a fence or other exercise of ownership by the riparian owner.

(4) A person other than a person possessing a firearm may, unless previously prohibited in writing or orally by the property owner or his or her lessee or agent, enter on foot upon the property of another person for the sole purpose of retrieving a hunting dog. The person shall not remain on the property beyond the reasonable time necessary to retrieve the dog. In an action under section 73109 or 73110, the burden of showing that the property owner or his or her lessee or agent previously prohibited entry under this subsection is on the plaintiff or prosecuting attorney, respectively.

(5) Consent to enter or remain upon the property of another person pursuant to this section may be given orally or in writing. The consent may establish conditions for entering or remaining upon that property. Unless prohibited in the written consent, a written consent may be amended or revoked orally. If the owner or his or her lessee or agent requires all persons entering or remaining upon the property to have written consent, the presence of the person on the property without written consent is prima facie evidence of unlawful entry.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

324.73103 Discharging firearm within right-of-way of public highway abutting certain property; consent; "public highway" defined.

Sec. 73103. (1) A person shall not discharge a firearm within the right-of-way of a public highway adjoining or abutting any platted property, fenced, enclosed, or posted property, farm property, or a wooded area connected to farm property without the consent of the owner of the abutting property or his or her lessee or agent.

(2) As used in this section, "public highway" means a road or highway under the jurisdiction of the state transportation department, the road commission of a county, or of a local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.74105 Volunteers; appointment; immunity from civil liability; carrying of firearm prohibited.

Sec. 74105. The department may appoint persons to serve as volunteers for the purpose of facilitating the responsibilities of the department as provided in this part. While a volunteer is serving in such a capacity, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of Act No. 170 of the Public Acts of 1964, being section 691.1408 of the Michigan Compiled Laws. A volunteer shall not carry a firearm while functioning as a volunteer.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

SUBCHAPTER 6: MOTORIZED RECREATIONAL VEHICLES

OFF-ROAD RECREATION VEHICLES

PART 811 OFF-ROAD RECREATION VEHICLES

324.81133 Operation of ORV; prohibited acts. (EXCERPT)

Sec. 81133. A person shall not operate an ORV:

(j) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, to remove a deer, elk, or bear from public land which has been taken under a valid license; or except for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations; or on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game pursuant to this subdivision shall be allowed to leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the code is exempt from this subdivision while operating on a public highway or public or private road capable of sustaining automobile traffic. A person holding a valid permit to hunt from a standing vehicle issued pursuant to part 401, or a person with disabilities using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this subdivision.

(k) While transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

SNOWMOBILES

PART 821 SNOWMOBILES

324.82126 Operation of snowmobile; prohibitions; construction, operation, and maintenance of snowmobile trail; conditions; “operate” defined; prohibited conduct; assumption of risk. (EXCERPT)

Sec. 82126. (1) A person shall not operate a snowmobile under any of the following circumstances:

(f) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency, for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, or for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations, or on the person’s own property or property under the person’s control or as an invited guest.

(g) While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1995, Act 201, Imd. Eff. Nov. 29, 1995;—Am. 1996, Act 500, Imd. Eff. Jan. 9, 1997;—Am. 1998, Act 30, Imd. Eff. Mar. 18, 1998.

SUBCHAPTER 7 FOREST RECREATION

PART 831 STATE FOREST RECREATION

324.83105 Forest recreation activities; volunteers.

Sec. 83105. (1) The department may appoint persons to function as volunteers for the purpose of facilitating forest recreation activities. While a volunteer is serving in such a capacity, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of 1964 PA 170, MCL 691.1408.

(2) A volunteer under subsection (1) shall not carry a firearm when functioning as a volunteer.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998.

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

AN ACT to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 198, Eff. Mar. 31, 1986;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 1993, Act 361, Eff. Sept. 1, 1994;—Am. 1994, Act 170, Imd. Eff. June 17, 1994;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998.

The People of the State of Michigan enact:

ARTICLE 7. CONTROLLED SUBSTANCES

PART 74. OFFENSES AND PENALTIES

333.7401c Manufacture of controlled substance; prohibited acts; violation as felony; exceptions; imposition of consecutive terms; court order to pay response activity costs; definitions.

Sec. 7401c. (1) A person shall not do any of the following:

(a) Own, possess, or use a vehicle, building, structure, place, or area that he or she knows or has reason to know is to be used as a location to manufacture a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(b) Own or possess any chemical or any laboratory equipment that he or she knows or has reason to know is to be used for the purpose of manufacturing a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(c) Provide any chemical or laboratory equipment to another person knowing or having reason to know that the other person intends to use that chemical or laboratory equipment for the purpose of manufacturing a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(2) A person who violates this section is guilty of a felony punishable as follows:

(a) Except as provided in subdivisions (b) to (e), by imprisonment for not more than 10 years or a fine of not more than $100,000.00, or both.

(b) If the violation is committed in the presence of a minor, by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(c) If the violation involves the unlawful generation, treatment, storage, or disposal of a hazardous waste, by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(d) If the violation occurs within 500 feet of a residence, business establishment, school property, or church or other house of worship, by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(e) If the violation involves the possession, placement, or use of a firearm or any other device designed or intended to be used to injure another person, by imprisonment for not more than 25 years or a fine of not more than $100,000.00, or both.

(3) This section does not apply to a violation involving only a substance described in section 7214(a)(*iv*) or marihuana, or both.

(4) This section does not prohibit the person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section.

(5) A term of imprisonment imposed under this section may be served consecutively to any other term of imprisonment imposed for a violation of law arising out of the same transaction.

(6) The court may, as a condition of sentence, order a person convicted of a violation punishable under subsection (2)(c) to pay response activity costs arising out of the violation.

(7) As used in this section:

(a) "Hazardous waste" means that term as defined in section 11103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11103.

(b) "Laboratory equipment" means any equipment, device, or container used or intended to be used in the process of manufacturing a controlled substance, counterfeit substance, or controlled substance analogue.

(c) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture does not include any of the following:

(*i*) The packaging or repackaging of the substance or labeling or relabeling of its container.

(*ii*) The preparation or compounding of a controlled substance by any of the following:

(A) A practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of his or her professional practice.

(B) A practitioner, or by the practitioner's authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(d) "Minor" means an individual less than 18 years of age.

(e) "Response activity costs" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(f) "School property" means that term as defined in section 7410.

(g) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

History: Add. 2000, Act 314, Eff. Jan. 1, 2001.

PRIVATE DETECTIVE LICENSE ACT OF 1965 (EXCERPT)
Act 285 of 1965

AN ACT to license and regulate private detectives and investigators; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; and to repeal certain acts and parts of acts.

History: 1965, Act 285, Imd. Eff. July 22, 1965.

The People of the State of Michigan enact:

338.839 Carrying deadly weapon; license required.

Sec. 19. Any person licensed as a private detective, or in the employ of a private detective agency, is not authorized to carry a deadly weapon unless he is so licensed in accordance with the present laws of this state.

History: 1965, Act 285, Imd. Eff. July 22, 1965.

PRIVATE SECURITY BUSINESS AND SECURITY ALARM ACT (EXCERPTS)
Act 330 of 1968

AN ACT to license and regulate private security guards, private security police, private security guard agencies and security alarm systems servicing, installing, operating, and monitoring; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by individuals engaged in private security activity or security alarm systems sales, installations, service, maintenance, and operations; to establish minimum qualifications for individuals as well as private agencies engaged in the security business and security alarm systems and operations; and to prescribe the powers and duties of the department of state police.

History: 1968, Act 330, Imd. Eff. July 12, 1968;—Am. 1975, Act 190, Imd. Eff. Aug. 5, 1975;—Am. 2000, Act 411, Eff. Mar. 28, 2001.

The People of the State of Michigan enact:

338.1069 Uniform and insignia; shoulder identification patches or emblems; badge or shield; deadly weapons; tactical baton. (EXCERPT)

(4) A person licensed as a security alarm system contractor, security alarm system agent, or a private security guard or agency is not authorized to carry a deadly weapon unless he or she is licensed to do so in accordance with the laws of this state.

History: 1968, Act 330, Imd. Eff. July 12, 1968;—Am. 1975, Act 190, Imd. Eff. Aug. 5, 1975;—Am. 2000, Act 411, Eff. Mar. 28, 2001.

338.1079 Applicability of act to private security guards and police; use of pistols.

Sec. 29. This act shall not require licensing of any private security guards employed for the purpose of protecting the property and employees of their employer and generally maintaining security for their employer. However, any person, firm, or corporation maintaining a private security police organization may voluntarily apply for licensing under this act. When a private security police employer described and defined in this section provides the employee with a pistol for the purpose of protecting the property of the employer, such pistol shall be considered the property of the employer and the employer shall retain custody thereof, except during the actual working hours of the employee. All such private security people shall be subject to the provisions of section 19(1).

History: 1968, Act 330, Imd. Eff. July 12, 1968;—Am. 1969, Act 168, Imd. Eff. Aug. 5, 1969;—Am. 2000, Act 411, Eff. Mar. 28, 2001.

THE REVISED SCHOOL CODE (EXCERPTS)
Act 451 of 1976

AN ACT to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 1990, Act 161, Imd. Eff. July 2, 1990;—Am. 1995, Act 289, Eff. July 1, 1996.

The People of the State of Michigan enact:

ARTICLE 2

PART 16

BOARDS OF EDUCATION; POWERS AND DUTIES GENERALLY

380.1311 Suspension or expulsion of pupils.

Sec. 1311. (1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is handicapped, and the school district has not evaluated the pupil in accordance with rules of the state board to determine if the student is handicapped, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5). However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.

(b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(3) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311*l*, an individual expelled pursuant to subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to subsection (2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual expelled from a school district pursuant to subsection (2) is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(v) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of

1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil expelled pursuant to subsection (2) than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620.

(4) If a school board expels an individual pursuant to subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(5) The parent or legal guardian of an individual expelled pursuant to subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(*i*) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(*ii*) The extent to which reinstatement of the individual would create a risk of school district liability or individual liability for the school board or school district personnel.

(*iii*) The age and maturity of the individual.

(*iv*) The individual's school record before the incident that caused the expulsion.

(*v*) The individual's attitude concerning the incident that caused the expulsion.

(*vi*) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(*vii*) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with subsection (2) is not liable for damages for expelling a pupil pursuant to subsection (2), and the authorizing body of a public school academy is not liable for damages for expulsion of a pupil by the public school academy pursuant to subsection (2).

(7) The department shall develop and distribute to all school districts a form for a petition for reinstatement to be used under subsection (5).

(8) This section does not diminish the due process rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

(9) If a pupil expelled from a public school district pursuant to subsection (2) is enrolled by a public school district sponsored alternative education program or a public school academy during the period of expulsion, the public school academy or alternative education program shall immediately become eligible for the prorated share of either the public school academy or operating school district's foundation allowance or the expelling school district's foundation allowance, whichever is higher.

(10) If an individual is expelled pursuant to subsection (2), it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in such a program during the expulsion. The office of safe schools in the department shall compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled pursuant to subsection (2) and pursuant to section 1311a, and shall periodically distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in this subsection shall notify the office of safe schools about the program or school and the types of pupils it serves. The office of safe schools also shall work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

(11) As used in this section:

(a) "Arson" means a felony violation of chapter X of the Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80.

(b) "Criminal sexual conduct" means a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(c) "Dangerous weapon" means that term as defined in section 1313.

(d) "Firearm" means that term as defined in section 921 of title 18 of the United States Code, 18 U.S.C. 921.

(e) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(f) "School district" means a school district, a local act school district, an intermediate school district, or a public school academy.

(g) "Weapon free school zone" means that term as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993;—Am. 1994, Act 328, Eff. Jan. 1, 1995;—Am. 1995, Act 250, Imd. Eff. Jan. 2, 1996;—Am. 1999, Act 23, Imd. Eff. May 12, 1999.

380.1313 Dangerous weapon found in possession of pupil; report; confiscation by school official; determination of legal owner; "dangerous weapon" defined.

Sec. 1313. (1) If a dangerous weapon is found in the possession of a pupil while the pupil is in attendance at school or a school activity or while the pupil is enroute to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, immediately shall report that finding to the pupil's parent or legal guardian and the local law enforcement agency.

(2) If a school official finds that a dangerous weapon is in the possession of a pupil as described in subsection (1), the school official may confiscate the dangerous weapon or shall request a law enforcement agency to respond as soon as possible and to confiscate the dangerous weapon. If a school official confiscates a dangerous weapon under this subsection, the school official shall give the dangerous weapon to a law enforcement agency and shall not release the dangerous weapon

to any other person, including the legal owner of the dangerous weapon. A school official who complies in good faith with this section is not civilly or criminally liable for that compliance.

(3) A law enforcement agency that takes possession of a dangerous weapon under subsection (2) shall check all available local and state stolen weapon and stolen property files and the national crime information center stolen gun and property files to determine the legal owner of the dangerous weapon. If the dangerous weapon is a pistol, the law enforcement agency also shall check the state pistol registration records to determine the legal owner. If the law enforcement agency is able to determine the legal owner of the dangerous weapon, and if the legal owner did not knowingly provide the dangerous weapon to the pupil or lawfully provided the dangerous weapon to the pupil but did not know or have reason to know that the pupil would possess the dangerous weapon while in attendance at school or a school activity or while en route to or from school on a school bus, the law enforcement agency shall send by certified mail to the legal owner a notice that the agency is in possession of the dangerous weapon and that the legal owner has 90 days from receipt of the notice to claim the dangerous weapon.

(4) As used in this section, "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

History: Add. 1987, Act 211, Imd. Eff. Dec. 22, 1987;—Am. 1995, Act 76, Eff. Aug. 1, 1995.

RURAL CEMETERY CORPORATIONS (EXCERPT)
Act 12 of 1869

AN ACT to authorize and encourage the formation of corporations to establish rural cemeteries; to provide for the care and maintenance thereof; to provide for the revision and codification of the laws relating to cemeteries, mausoleums, crypts, vaults, crematoriums, and other means of disposing of the dead; to make an appropriation therefor; and to impose certain duties upon the department of commerce.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—Am. 1929, Act 215, Eff. Aug. 28, 1929;—Am. 1982, Act 110, Imd. Eff. Apr. 19, 1982.

The People of the State of Michigan enact:

456.114 Use of firearms in cemetery; entering over fence; penalty.

Sec. 14. No person shall use firearms upon the grounds of any cemetery owned and inclosed by any such corporation, nor hunt game therein. No person shall enter into such inclosed cemetery by climbing or leaping over or through any fence or wall around the same, nor direct or cause any animal to enter therein in any such manner. Any person offending against any of the provisions of this section shall be punished by a fine not exceeding 50 dollars or by imprisonment not exceeding 3 months, or by both, in the discretion of the court.

History: 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3421;—Am. 1875, Act 218, Eff. Aug. 3, 1875;—How. 4776;—CL 1897, 8412;—CL 1915, 11173;—CL 1929, 10453;—CL 1948, 456.114.

REVISED JUDICATURE ACT OF 1961 (EXCERPTS)

Act 236 of 1961

AN ACT to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 52, Imd. Eff. Mar. 26, 1974;—Am. 1999, Act 239, Imd. Eff. Dec. 28, 1999.

The People of the State of Michigan enact:

CHAPTER 6.

JURISDICTION OF THE CIRCUIT COURTS

600.606 Violations by certain juveniles; jurisdiction of circuit court; "specified juvenile violation" defined.

Sec. 606. (1) The circuit court has jurisdiction to hear and determine a specified juvenile violation if committed by a juvenile 14 years of age or older and less than 17 years of age.

(2) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(b) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency.

(d) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: Add. 1988, Act 52, Eff. Oct. 1, 1988;—Am. 1994, Act 193, Eff. Oct. 1, 1994;—Am. 1996, Act 260, Eff. Jan. 1, 1997.

Compiler's note: Section 3 of Act 52 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 171 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

CHAPTER 29.

PROVISIONS CONCERNING SPECIFIC ACTIONS

600.2950 Personal protection order; restraining or enjoining spouse, former spouse, individual with child in common, individual in dating relationship, or person residing or having resided in same household from certain conduct; respondent required to carry concealed weapon; omitting address of residence from documents; issuance, contents, effectiveness, duration, and service of personal protection order; entering order into L.E.I.N.; notice; failure to comply with order; false statement to court; enforcement; minor; definitions.

Sec. 2950. (1) Except as provided in subsections (27) and (28), by commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner from doing 1 or more of the following:

(a) Entering onto premises.

(b) Assaulting, attacking, beating, molesting, or wounding a named individual.

(c) Threatening to kill or physically injure a named individual.

(d) Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(e) Purchasing or possessing a firearm.

(f) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.

(g) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

(h) Having access to information in records concerning a minor child of both petitioner and respondent that will inform respondent about the address or telephone number of petitioner and petitioner's minor child or about petitioner's employment address.

(i) Engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(j) Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

(2) If the respondent is a person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of his or her employment, a police officer certified by the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the Michigan department of state police, a local corrections officer, department of corrections employee, or a federal law enforcement officer who carries a firearm during the normal course of his or her employment, the petitioner shall notify the court of the respondent's occupation prior to the issuance of the personal protection order. This subsection does not apply to a petitioner who does not know the respondent's occupation.

(3) A petitioner may omit his or her address of residence from documents filed with the court under this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court with a mailing address.

(4) The court shall issue a personal protection order under this section if the court determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1). In determining whether reasonable cause exists, the court shall consider all of the following:

(a) Testimony, documents, or other evidence offered in support of the request for a personal protection order.

(b) Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in subsection (1).

(5) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1)(a) if all of the following apply:

(a) The individual to be restrained or enjoined is not the spouse of the moving party.

(b) The individual to be restrained or enjoined or the parent, guardian, or custodian of the minor to be restrained or enjoined has a property interest in the premises.

(c) The moving party or the parent, guardian, or custodian of a minor petitioner has no property interest in the premises.

(6) A court shall not refuse to issue a personal protection order solely due to the absence of any of the following:

(a) A police report.

(b) A medical report.

(c) A report or finding of an administrative agency.

(d) Physical signs of abuse or violence.

(7) If the court refuses to grant a personal protection order, it shall state immediately in writing the specific reasons it refused to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.

(8) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1).

(9) A personal protection order is effective and immediately enforceable when signed by a judge.

(10) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(11) A personal protection order shall include all of the following, and to the extent practicable the following shall be contained in a single form:

(a) A statement that the personal protection order has been entered to restrain or enjoin conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to either of the following:

(*i*) If the respondent is 17 years of age or more, immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than $500.00.

(*ii*) If the respondent is less than 17 years of age, immediate apprehension or being taken into custody, and subject to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code, 1939 PA 288, MCL 712A.18.

(b) A statement that the personal protection order is effective and immediately enforceable when signed by a judge.

(c) A statement listing the type or types of conduct enjoined.

(d) An expiration date stated clearly on the face of the order.

(e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.

(f) The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.

(g) For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the order and that motion forms and filing instructions are available from the clerk of the court.

(12) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

(13) A personal protection order issued under subsection (12) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing under the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed.

(14) Except as otherwise provided in this subsection, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind. If the respondent is a person described in subsection (2) and the personal protection order prohibits him or her from purchasing or possessing a firearm, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 5 days after the filing of the motion to modify or rescind.

(15) The clerk of the court that issues a personal protection order shall do all of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined:

(a) File a true copy of the personal protection order with the law enforcement agency designated by the court in the personal protection order.

(b) Provide the petitioner with not less than 2 true copies of the personal protection order.

(c) If respondent is identified in the pleadings as a law enforcement officer, notify the officer's employing law enforcement agency, if known, about the existence of the personal protection order.

(d) If the personal protection order prohibits respondent from purchasing or possessing a firearm, notify the concealed weapon licensing board in respondent's county of residence about the existence and contents of the personal protection order.

(e) If the respondent is identified in the pleadings as a department of corrections employee, notify the state department of corrections about the existence of the personal protection order.

(f) If the respondent is identified in the pleadings as being a person who may have access to information concerning the petitioner or a child of the petitioner or respondent and that information is contained in friend of the court records, notify the friend of the court for the county in which the information is located about the existence of the personal protection order.

(16) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (10) to be immediately entered into the law enforcement information network.

(17) The law enforcement agency that receives a true copy of the personal protection order under subsection (15) or (16) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(18) A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a personal protection order exists may, at any time, serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. If the respondent is less than 18 years of age, the parent, guardian, or custodian of that individual shall also be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the parent, guardian, or custodian of the individual restrained or enjoined. A proof of service or proof of oral notice shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (21) and (22).

(19) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (15) or (16) if either of the following occurs:

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served.

(b) The personal protection order is rescinded, modified, or extended by court order.

(20) The law enforcement agency that receives information under subsection (19) shall enter the information or cause the information to be entered into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(21) Subject to subsection (22), a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(22) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order. The law enforcement officer also shall file a proof of service or proof of oral notice with the clerk of the court issuing the personal protection order. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of chapter XIIA of 1939 PA 288, MCL 712A.14.

(23) An individual who is 17 years of age or more and who refuses or fails to comply with a personal protection order under this section is subject to the criminal contempt powers of the court and, if found guilty, shall be imprisoned for not more than 93 days and may be fined not more than $500.00. An individual who is less than 17 years of age and who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives listed in section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18. The criminal penalty provided for under this section may be imposed in addition to a penalty that may be imposed for another criminal offense arising from the same conduct.

(24) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(25) A personal protection order issued under this section is also enforceable under chapter XIIA of 1939 PA 288, MCL 712A.1 to 712A.31, and section 15b of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

(26) A personal protection order issued under this section is also enforceable under chapter 17.

(27) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1) if either of the following applies:

(a) The respondent is the unemancipated minor child of the petitioner.

(b) The petitioner is the unemancipated minor child of the respondent.

(28) If the respondent is less than 18 years of age, issuance of a personal protection order under this section is subject to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(29) A personal protection order that is issued prior to the effective date of the amendatory act that added this subsection is not invalid on the ground that it does not comply with 1 or more of the requirements added by this amendatory act.

(30) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is the enforcement of laws of the United States.

(c) "Personal protection order" means an injunctive order issued by the circuit court or the family division of circuit court restraining or enjoining activity and individuals listed in subsection (1).

History: Add. 1983, Act 228, Imd. Eff. Nov. 28, 1983;—Am. 1994, Act 58, Eff. July 1, 1994;—Am. 1994, Act 61, Eff. July 1, 1994;—Am. 1994, Act 341, Eff. Apr. 1, 1996;—Am. 1994, Act 402, Eff. Apr. 1, 1995;—Am. 1996, Act 10, Eff. June 1, 1996;—Am. 1997, Act 115, Imd. Eff. Aug. 21, 1997;—Am. 1998, Act 477, Eff. Mar. 1, 1999;—Am. 1999, Act 268, Eff. July 1, 2000.

600.2950a Personal protection order restraining or enjoining individual from engaging in conduct prohibited under §§ 750.411h and 750.411i; facts alleging stalking; respondent required to carry concealed weapon; omitting address of residence from documents; refusal to grant order; mutual order prohibited; effectiveness, issuance, contents, and duration of order; duties of court clerk; entering order into L.E.I.N.; service; notice to law enforcement agency; enforcement; refusal or failure to comply; false statement to court; purchase or possession of firearm; minor; issuance to prisoner prohibited; definitions.

Sec. 2950a. (1) Except as provided in subsections (25) and (26), by commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i. Relief shall not be granted unless the petition alleges facts that constitute stalking as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i, for the alleged violation.

(2) If the respondent is a person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of his or her employment, a police officer certified by the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, a sheriff, a deputy sheriff or a member of the Michigan department of state police, a local corrections officer, a department of corrections employee, or a federal law enforcement officer who carries a firearm during the normal course of his or her employment, the petitioner shall notify the court of the respondent's occupation prior to the issuance of the personal protection order. This subsection does not apply to a petitioner who does not know the respondent's occupation.

(3) A petitioner may omit his or her address of residence from documents filed with the court pursuant to this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court a mailing address.

(4) If the court refuses to grant a personal protection order, it shall immediately state in writing the specific reasons it refused to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.

(5) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1).

(6) A personal protection order is effective and immediately enforceable when signed by a judge.

(7) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(8) A personal protection order issued under this section shall include all of the following, and to the extent practicable the following shall be contained in a single form:

(a) A statement that the personal protection order has been entered to enjoin or restrain conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to either of the following:

(*i*) If the respondent is 17 years of age or more, immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than $500.00.

(*ii*) If the respondent is less than 17 years of age, to immediate apprehension or being taken into custody, and subject to the dispositional alternatives listed in section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18.

(b) A statement that the personal protection order is effective and immediately enforceable when signed by a judge.

(c) A statement listing the type or types of conduct enjoined.

(d) An expiration date stated clearly on the face of the order.

(e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.

(f) The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.

(g) For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the personal protection order and that motion forms and filing instructions are available from the clerk of the court.

(9) An ex parte personal protection order shall not be issued and effective without written or oral notice to the individual enjoined or his or her attorney unless it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

(10) A personal protection order issued under subsection (9) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing pursuant to the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed.

(11) Except as otherwise provided in this subsection, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind. If the respondent is a person described in subsection (2) and the personal protection order prohibits him or her from purchasing or possessing a firearm, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 5 days after the filing of the motion to modify or rescind.

(12) The clerk of the court that issues a personal protection order shall do all of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined:

(a) File a true copy of the personal protection order with the law enforcement agency designated by the court in the personal protection order.

(b) Provide petitioner with not less than 2 true copies of the personal protection order.

(c) If respondent is identified in the pleadings as a law enforcement officer, notify the officer's employing law enforcement agency about the existence of the personal protection order.

(d) If the personal protection order prohibits respondent from purchasing or possessing a firearm, notify the concealed weapon licensing board in respondent's county of residence about the existence and contents of the personal protection order.

(e) If the respondent is identified in the pleadings as a department of corrections employee, notify the state department of corrections about the existence of the personal protection order.

(f) If the respondent is identified in the pleadings as being a person who may have access to information concerning the petitioner or a child of the petitioner or respondent and that information is contained in friend of the court records, notify the friend of the court for the county in which the information is located about the existence of the personal protection order.

(13) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (7) to be immediately entered into the law enforcement information network.

(14) The law enforcement agency that receives a true copy of the personal protection order under subsection (12) or (13) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network, as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(15) A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a personal protection order exists may, at

any time, serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. If the respondent is less than 18 years of age, the parent, guardian, or custodian of that individual shall also be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the parent, guardian, or custodian of the individual restrained or enjoined. A proof of service or proof of oral notice shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (18) and (19).

(16) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (12) or (13) if either of the following occurs:

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served.

(b) The personal protection order is rescinded, modified, or extended by court order.

(17) The law enforcement agency that receives information under subsection (16) shall enter the information or cause the information to be entered into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(18) Subject to subsection (19), a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(19) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order. The law enforcement officer also shall file a proof of service or proof of oral notice with the clerk of the court issuing the personal protection order. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a, or a proceeding under section 14 of chapter XIIA of 1939 PA 288, MCL 712A.14.

(20) An individual who is 17 years of age or more and who refuses or fails to comply with a personal protection order issued under this section is subject to the criminal contempt powers of the court and, if found guilty of criminal contempt, shall be imprisoned for not more than 93 days and may be fined not more than $500.00. An individual who is less than 17 years of age and who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives listed in section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18. The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(21) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(22) A personal protection order issued under this section is also enforceable under chapter XIIA of 1939 PA 288, MCL 712A.1 to 712A.31, and section 15b of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15b.

(23) A personal protection order issued under this section may enjoin or restrain an individual from purchasing or possessing a firearm.

(24) A personal protection order issued under this section is also enforceable under chapter 17.

(25) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1) if either of the following applies:

(a) The respondent is the unemancipated minor child of the petitioner.

(b) The petitioner is the unemancipated minor child of the respondent.

(26) If the respondent is less than 18 years of age, issuance of a personal protection order under this section is subject to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(27) A personal protection order that is issued prior to the effective date of the amendatory act that added this subsection is not invalid on the ground that it does not comply with 1 or more of the requirements added by that amendatory act.

(28) A court shall not issue a personal protection order under this section if the petitioner is a prisoner. If a personal protection order is issued in violation of this subsection, a court shall rescind the personal protection order upon notification and verification that the petitioner is a prisoner.

(29) As used in this section:

(a) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is the enforcement of laws of the United States.

(b) "Personal protection order" means an injunctive order issued by circuit court or the family division of circuit court restraining or enjoining conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(c) "Prisoner" means a person subject to incarceration, detention, or admission to a prison who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of federal, state, or local law or the terms and conditions of parole, probation, pretrial release, or a diversionary program.

History: Add. 1992, Act 262, Eff. Jan. 1, 1993;—Am. 1994, Act 61, Eff. July 1, 1994;—Am. 1994, Act 341, Eff. Apr. 1, 1996;—Am. 1994, Act 404, Eff. Apr. 1, 1995;—Am. 1997, Act 115, Imd. Eff. Aug. 21, 1997;—Am. 1998, Act 476, Eff. Mar. 1, 1999;—Am. 1999, Act 268, Eff. July 1, 2000.

600.2951 "Approved signaling device" and "pistol" defined; use of approved signaling device; strict liability for damages; exception.

Sec. 2951. (1) As used in this section:

(a) "Approved signaling device" means a pistol which is a signaling device approved by the United States coast guard pursuant to regulations issued under section 4488 of the Revised Statutes of the United States, 46 U.S.C. 481, or under section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

(b) "Pistol" means a firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.

(2) A person who uses an approved signaling device shall be strictly liable for any damages caused to person or property by that use unless the person reasonably believes that its use is necessary for the safety of himself or herself or of another person on the waters of this state or in an aircraft emergency situation.

History: Add. 1982, Act 186, Eff. July 1, 1982.

SPORT SHOOTING RANGES
Act 269 of 1989

AN ACT to provide civil immunity to persons who operate or use certain sport shooting ranges; and to regulate the application of state and local laws, rules, regulations, and ordinances regarding sport shooting ranges.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989.

The People of the State of Michigan enact:

691.1541 Definitions.

Sec. 1. As used in this act:

(a) "Generally accepted operation practices" means those practices adopted by the commission of natural resources that are established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs that include training individuals in the safe handling and use of firearms, which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges. The generally accepted operation practices shall be reviewed at least every 5 years by the commission of natural resources and revised as the commission considers necessary. The commission shall adopt generally accepted operation practices within 90 days of the effective date of section 2a.

(b) "Local unit of government" means a county, city, township, or village.

(c) "Person" means an individual, proprietorship, partnership, corporation, club, governmental entity, or other legal entity.

(d) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989;—Am. 1994, Act 250, Imd. Eff. July 5, 1994.

691.1542 Sport shooting ranges; civil liability or criminal prosecution; state rules or regulations.

Sec. 2. (1) Notwithstanding any other provision of law, and in addition to other protections provided in this act, a person who owns or operates or uses a sport shooting range that conforms to generally accepted operation practices in this state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(2) In addition to other protections provided in this act, a person who owns, operates, or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere do not apply to a sport shooting range exempted from liability under this act. However, this subsection does not restrict the application of any provision of the generally accepted operation practices.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989;—Am. 1994, Act 250, Imd. Eff. July 5, 1994.

691.1542a Continuation of preexisting sport shooting ranges.

Sec. 2a. (1) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

(2) A sport shooting range that is in existence as of the effective date of this section and operates in compliance with generally accepted operation practices, even if not in compliance with an ordinance of a local unit of government, shall be permitted to do all of the following within its preexisting geographic boundaries if in compliance with generally accepted operation practices:

(a) Repair, remodel, or reinforce any conforming or nonconforming building or structure as may be necessary in the interest of public safety or to secure the continued use of the building or structure.

(b) Reconstruct, repair, restore, or resume the use of a nonconforming building damaged by fire, collapse, explosion, act of god, or act of war occurring after the effective date of this section. The reconstruction, repair, or restoration shall be completed within 1 year following the date of the damage or settlement of any property damage claim. If reconstruction, repair, or restoration is not completed within 1 year, continuation of the nonconforming use may be terminated in the discretion of the local unit of government.

(c) Do anything authorized under generally accepted operation practices, including, but not limited to:

(*i*) Expand or increase its membership or opportunities for public participation.

(*ii*) Expand or increase events and activities.

History: Add. 1994, Act 250, Imd. Eff. July 5, 1994.

691.1543 Local regulation.

Sec. 3. Except as otherwise provided in this act, this act does not prohibit a local unit of government from regulating the location, use, operation, safety, and construction of a sport shooting range.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989;—Am. 1994, Act 250, Imd. Eff. July 5, 1994.

691.1544 Acceptance of risk.

Sec. 4. Each person who participates in sport shooting at a sport shooting range that conforms to generally accepted operation practices accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

History: Add. 1994, Act 251, Imd. Eff. July 5, 1994.

PROBATE CODE OF 1939 (EXCERPTS)
Act 288 of 1939

AN ACT to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties.

History: 1939, Act 288, Eff. Sept. 29, 1939;—Am. 1972, Act 175, Imd. Eff. June 16, 1972;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1982, Act 398, Imd. Eff. Dec. 28, 1982;—Am. 1997, Act 163, Eff. Jan. 1, 1998;—Am. 2000, Act 232, Eff. Jan. 1, 2001.

The People of the State of Michigan enact:

CHAPTER XIIA

JURISDICTION, PROCEDURE, AND DISPOSITION INVOLVING MINORS

712A.2 Authority and jurisdiction of court.

Sec. 2. The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. If the court enters into an agreement under section 2e of this chapter, the court has jurisdiction over a juvenile who committed a civil infraction as provided in that section. The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. As used in this sub-subdivision, "specified juvenile violation" means 1 or more of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(B) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this paragraph, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(C) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted

escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(D) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) A lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Another violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause, and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian, and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) "Education" means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) "Without proper custody or guardianship" does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in.

(3) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the juvenile.

(5) If the juvenile has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile for 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for 2 years or more before the filing of the petition.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, has regularly and substantially failed or neglected, without good cause, to do so for 2 years or more before the filing of the petition.

If a petition is filed in the court alleging that a juvenile is within the provisions of subdivision (b)(1), (2), (3), (4), or (5) and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court of record and the authority of the court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the family division of circuit court by a circuit court under a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion related to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the juvenile's parents, or by an amended judgment relative to the juvenile's custody in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning a juvenile between the ages of 17 and 18 found within the county who is 1 or more of the following:

(1) Repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Repeatedly associating with criminal, dissolute, or disorderly persons.

(3) Found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Repeatedly associating with thieves, prostitutes, pimps, or procurers.

(5) Willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and in danger of becoming morally depraved.

If a juvenile is brought before the court in a county other than that in which the juvenile resides, before a hearing and with the consent of the judge of the court in the county of residence, the court may enter an order transferring jurisdiction of the matter to the court of the county of residence. Consent to transfer jurisdiction is not required if the county of residence is a county juvenile agency and satisfactory proof of residence is furnished to the court of the county of residence. The order does not constitute a legal settlement in this state that is required for the purpose of section 55 of the social welfare act, 1939 PA 280, MCL 400.55. The order and a certified copy of the proceedings in the transferring court shall be delivered to the court of the county of residence. A case designated as a case in which the juvenile shall be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but shall not be transferred on grounds of residency. If the case is not transferred, the court having jurisdiction of the offense shall try the case.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court jurisdiction but otherwise falls within subdivision (a). These services shall be used only if the juvenile and his or her parents, guardian, or custodian voluntarily accepts them.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if the circuit court orders the family division of circuit court in the same county to place the juvenile in that home. The family division of circuit court shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a, if the court designates the case under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult and the court determines there is probable cause to believe that the offense was committed and probable cause to believe the juvenile committed that offense.

(h) Jurisdiction over a proceeding under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, in which a minor less than 18 years of age is the respondent. Venue for an initial action under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of residence of either the petitioner or respondent. If the respondent does not live in this state, venue for the initial action is proper in the petitioner's county of residence.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944;—Am. 1947, Act 68, Imd. Eff. May 2, 1947;—CL 1948, 712A.2;—Am. 1953, Act 193, Eff. Oct. 2, 1953;—Am. 1965, Act 182, Imd. Eff. July 15, 1965;—Am. 1972, Act 175, Imd. Eff. June 16, 1972;—Am. 1984, Act 131, Imd. Eff. June 1, 1984;—Am. 1986, Act 203, Imd. Eff. July 25, 1986;—Am. 1988, Act 53, Eff. Oct. 1, 1988;—Am. 1988, Act 224, Eff. Apr. 1, 1989;—Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990;—Am. 1994, Act 192, Eff. Oct. 1, 1994;—Am. 1996, Act 250, Eff. Jan. 1, 1997;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 1998, Act 474, Eff. Mar. 1, 1999;—Am. 1998, Act 478, Eff. Jan. 12, 1999;—Am. 1998, Act 530, Eff. July 1, 1999;—Am. 2000, Act 55, Eff. Apr. 1, 2000.

Compiler's note: Section 3 of Act 53 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 172 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former law: See sections 2, 3, 4 and 5 of Ch. XII of Act 288 of 1939, and CL 1929, § 12834.

712A.2d Juvenile to be tried as adult; designation by prosecuting attorney or court; factors; probable cause hearing; setting case for trial; proceedings as criminal proceedings; disposition or imposition of sentence; "specified juvenile violation" defined.

Sec. 2d. (1) In a petition or amended petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for a specified juvenile violation, the prosecuting attorney may designate the case as a case in which the juvenile is to be tried in the same manner as an adult. An amended petition making a designation under this subsection shall be filed only by leave of the court.

(2) In a petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a specified juvenile violation, the prosecuting attorney may request that the court designate the case as a case in which the juvenile is to be tried in the same manner as an adult. The court may designate the case following a hearing if it determines that the best interests of the juvenile and the public would be served by the juvenile being tried in the same manner as an adult. In determining whether the best interests of the juvenile and the public would be served, the court shall consider all of the following factors, giving greater weight to the seriousness of the alleged offense and the juvenile's prior delinquency record than to the other factors:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(3) If a case is designated under this section, the case shall be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction unless a probable cause hearing is required under subsection (4).

(4) If the petition in a case designated under this section alleges an offense that if committed by an adult would be a felony or punishable by imprisonment for more than 1 year, the court shall conduct a probable cause hearing not later than 14 days after the case is designated to determine whether there is probable cause to believe the offense was committed and whether there is probable cause to believe the juvenile committed the offense. This hearing may be combined with the designation hearing under subsection (2) for an offense other than a specified juvenile offense. A probable cause hearing under this section is the equivalent of the preliminary examination in a court of general criminal jurisdiction and satisfies the requirement for that hearing. A probable cause hearing shall be conducted by a judge other than the judge who will try the case if the juvenile is tried in the same manner as an adult.

(5) If the court determines there is probable cause to believe the offense alleged in the petition was committed and probable cause to believe the juvenile committed the offense, the case shall be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(6) If the court determines that an offense did not occur or there is not probable cause to believe the juvenile committed the offense, the court shall dismiss the petition. If the court determines there is probable cause to believe another offense was committed and there is probable cause to believe the juvenile committed that offense, the court may further determine whether the case should be designated as a case in which the juvenile should be tried in the same manner as an adult as provided in subsection (2). If the court designates the case, the case shall be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(7) If a case is designated under this section, the proceedings are criminal proceedings and shall afford all procedural protections and guarantees to which the juvenile would be entitled if being tried for the offense in a court of general criminal jurisdiction. A plea of guilty or nolo contendere or a verdict of guilty shall result in entry of a judgment of conviction. The conviction shall have the same effect and liabilities as if it had been obtained in a court of general criminal jurisdiction.

(8) Following a judgment of conviction, the court shall enter a disposition or impose a sentence authorized under section 18(1)(n) of this chapter.

(9) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the juvenile escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(d) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

(i) Any other offense arising out of the same transaction as an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

History: Add. 1996, Act 244, Eff. Aug. 1, 1996;—Am. 1998, Act 478, Eff. Jan. 12, 1999.

712A.4 Waiver of jurisdiction when child of 14 or older accused of felony.

Sec. 4. (1) If a juvenile 14 years of age or older is accused of an act that if committed by an adult would be a felony, the judge of the family division of circuit court in the county in which the offense is alleged to have been committed may waive jurisdiction under this section upon motion of the prosecuting attorney. After waiver, the juvenile may be tried in the court having general criminal jurisdiction of the offense.

(2) Before conducting a hearing on the motion to waive jurisdiction, the court shall give notice of the hearing in the manner provided by supreme court rule to the juvenile and the prosecuting attorney and, if addresses are known, to the juvenile's parents or guardians. The notice shall state clearly that a waiver of jurisdiction to a court of general criminal jurisdiction has been requested and that, if granted, the juvenile can be prosecuted for the alleged offense as though he or she were an adult.

(3) Before the court waives jurisdiction, the court shall determine on the record if there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and if there is probable cause to believe that the juvenile committed the offense. Before a juvenile may waive a probable cause hearing under this subsection, the court shall inform the juvenile that a waiver of this subsection waives the preliminary examination required by chapter VI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 766.1 to 766.18 of the Michigan Compiled Laws.

(4) Upon a showing of probable cause under subsection (3), the court shall conduct a hearing to determine if the best interests of the juvenile and the public would be served by granting a waiver of jurisdiction to the court of general criminal jurisdiction. In making its determination, the court shall consider all of the following criteria, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency than to the other criteria:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The culpability of the juvenile in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(5) If the court determines that there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and that the juvenile committed the offense, the court shall waive jurisdiction of the juvenile if the court finds that the juvenile has previously been subject to the jurisdiction of the circuit court under this section or section 606 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or the recorder's court of the city of Detroit under this section or section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws.

(6) If legal counsel has not been retained or appointed to represent the juvenile, the court shall advise the juvenile and his or her parents, guardian, custodian, or guardian ad litem of the juvenile's right to representation and appoint legal counsel. If the court appoints legal counsel, the judge may assess the cost of providing legal counsel as costs against the juvenile or those responsible for his or her support, or both, if the persons to be assessed are financially able to comply.

(7) Legal counsel shall have access to records or reports provided and received by the judge as a basis for decision in proceedings for waiver of jurisdiction. A continuance shall be granted at legal counsel's request if any report, information, or recommendation not previously available is introduced or developed at the hearing and the interests of justice require a continuance.

(8) The court shall enter a written order either granting or denying the motion to waive jurisdiction and the court shall state on the record or in a written opinion the court's findings of fact and conclusions of law forming the basis for entering the order. If a juvenile is waived, a transcript of the court's findings or a copy of the written opinion shall be sent to the court of general criminal jurisdiction.

(9) If the court does not waive jurisdiction, a transcript of the court's findings or, if a written opinion is prepared, a copy of the written opinion shall be sent to the prosecuting attorney, juvenile, or juvenile's attorney upon request.

(10) If the court waives jurisdiction, the juvenile shall be arraigned on an information filed by the prosecutor in the court of general criminal jurisdiction. The probable cause finding under subsection (3) satisfies the requirements of, and is the equivalent of, the preliminary examination required by chapter VI of Act No. 175 of the Public Acts of 1927.

(11) As used in this section, "felony" means an offense punishable by imprisonment for more than 1 year or an offense designated by law as a felony.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944;—Am. 1946, 1st Ex. Sess., Act 22, Imd. Eff. Feb. 26, 1946; —CL 1948, 712A.4;—Am. 1969, Act 140, Eff. Mar. 20, 1970;—Am. 1972, Act 265, Imd. Eff. Oct. 3, 1972;—Am. 1988, Act 182, Eff. Oct. 1, 1988;—Am. 1996, Act 262, Eff. Jan. 1, 1997;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Former law: See section 26 of Ch. XII of Act 288 of 1939, and CL 1929, § 12839.

712A.13a Definitions; petition; release of juvenile; order removing abusive person from home; placement of child; duty of court to inform parties; criminal record check and central registry clearance; family-like setting; parenting time; review and modification of orders and plans; release of information; information included with order; "abuse" defined.

Sec. 13a. (1) As used in this section and sections 2, 6b, 13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization, institution, or facility responsible under court order or contractual arrangement for a juvenile's care and supervision.

(b) "Attorney" means, if appointed to represent a child in a proceeding under section 2(b) or (c) of this chapter, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client. For the purpose of a notice required under these sections, attorney includes a child's lawyer-guardian ad litem.

(c) "Case service plan" means the plan developed by an agency and prepared pursuant to section 18f of this chapter that includes services to be provided by and responsibilities and obligations of the agency and activities, responsibilities, and obligations of the parent. The case service plan may be referred to using different names than case service plan including, but not limited to, a parent/agency agreement or a parent/agency treatment plan and service agreement.

(d) "Foster care" means care provided to a juvenile in a foster family home, foster family group home, or child caring institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a juvenile in a relative's home under a court order.

(e) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(f) "Lawyer-guardian ad litem" means an attorney appointed under section 17c of this chapter. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 17d of this chapter. The provisions of section 17d of this chapter also apply to a lawyer-guardian ad litem appointed under each of the following:

(*i*) Section 5213 or 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

(*ii*) Section 4 of the child custody act of 1970, 1970 PA 91, MCL 722.24.

(*iii*) Section 10 of the child protection law, 1975 PA 238, MCL 722.630.

(g) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child over whom the court takes jurisdiction under this chapter:

(*i*) Has substantial and regular contact with the child.

(*ii*) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(*iii*) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(h) "Permanent foster family agreement" means an agreement for a child 14 years old or older to remain with a particular foster family until the child is 18 years old under standards and requirements established by the family independence agency, which agreement is among all of the following:

(*i*) The child.

(*ii*) If the child is a temporary ward, the child's family.

(*iii*) The foster family.

(*iv*) The child placing agency responsible for the child's care in foster care.

(2) If a juvenile is alleged to be within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The court may authorize the petition upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter. If a petition is before the court because the family independence agency is required to submit the petition under section 17 of the child protection law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on the petition within 24 hours or on the next business day after the petition is submitted, at which hearing the court shall consider at least the matters governed by subsections (4) and (5).

(3) Except as provided in subsection (5), if a petition under subsection (2) is authorized, the court may release the juvenile in the custody of either of the juvenile's parents or the juvenile's guardian or custodian under reasonable terms and conditions necessary for either the juvenile's physical health or mental well-being.

(4) The court may order a parent, guardian, custodian, nonparent adult, or other person residing in a child's home to leave the home and, except as the court orders, not to subsequently return to the home if all of the following take place:

(a) A petition alleging abuse of the child by the parent, guardian, custodian, nonparent adult, or other person is authorized under subsection (2).

(b) The court after a hearing finds probable cause to believe the parent, guardian, custodian, nonparent adult, or other person committed the abuse.

(c) The court finds on the record that the presence in the home of the person alleged to have committed the abuse presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(5) If a petition alleges abuse by a person described in subsection (4), regardless of whether the court orders the alleged abuser to leave the child's home under subsection (4), the court shall not leave the child in or return the child to the child's home or place the child with a person not licensed under 1973 PA 116, MCL 722.111 to 722.128, unless the court finds that the conditions of custody at the placement and with the individual with whom the child is placed are adequate to safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(6) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the juvenile's home is married to the person to be removed or has a legal right to retain possession of the home.

(7) An order entered under subsection (4) may also contain 1 or more of the following terms or conditions:

(a) The court may require the alleged abusive parent to pay appropriate support to maintain a suitable home environment for the juvenile during the duration of the order.

(b) The court may order the alleged abusive person, according to terms the court may set, to surrender to a local law enforcement agency any firearms or other potentially dangerous weapons the alleged abusive person owns, possesses, or uses.

(c) The court may include any reasonable term or condition necessary for the juvenile's physical or mental well-being or necessary to protect the juvenile.

(8) If the court orders placement of the juvenile outside the juvenile's home, the court shall inform the parties of the following:

(a) That the agency has the responsibility to prepare an initial services plan within 30 days of the juvenile's placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128.

(c) That participation in the initial services plan is voluntary without a court order.

(9) Before or within 7 days after a child is placed in a relative's home, the family independence agency shall perform a criminal record check and central registry clearance. If the child is placed in the home of a relative, the court shall order a home study to be performed and a copy of the home study to be submitted to the court not more than 30 days after the placement.

(10) In determining placement of a juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the juvenile's needs.

(11) If a juvenile is removed from his or her home, the court shall permit the juvenile's parent to have frequent parenting time with the juvenile. However, if parenting time, even if supervised, may be harmful to the juvenile, the court shall order the child to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time. The court may suspend parenting time while the psychological evaluation or counseling is conducted.

(12) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section are in the juvenile's best interests.

(13) The court shall include in an order placing a child in foster care an order directing the release of information concerning the child in accordance with this subsection. If a child is placed in foster care, within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with copies of all initial, updated, and revised case service plans and court orders relating to the child and all of the child's medical, mental health, and education reports, including reports compiled before the child was placed with that person.

(14) In an order placing a child in foster care, the court shall include both of the following:

(a) An order that the child's parent, guardian, or custodian provide the supervising agency with the name and address of each of the child's medical providers.

(b) An order that each of the child's medical providers release the child's medical records. The order may specify providers by profession or type of institution.

(15) As used in this section, "abuse" means 1 or more of the following:

(a) Harm or threatened harm by a person to a juvenile's health or welfare that occurs through nonaccidental physical or mental injury.

(b) Engaging in sexual contact or sexual penetration as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(d) Maltreatment of a juvenile.

History: Add. 1988, Act 224, Eff. Apr. 1, 1989;—Am. 1993, Act 114, Imd. Eff. July 20, 1993;—Am. 1996, Act 16, Eff. June 1, 1996;—Am. 1997, Act 163, Eff. Mar. 31, 1998;—Am. 1998, Act 480, Eff. Mar. 1, 1999;—Am. 1998, Act 530, Eff. July 1, 1999;—Am. 2000, Act 55, Eff. Apr. 1, 2000.

712A.18 Orders of disposition; reimbursement; hearing; guidelines and model schedule; restitution; condition of probation; community service; fingerprints; report to state police; payment of assessment; registration of juvenile provided in §§ 28.721 to 28.732; release from placement in juvenile boot camp; alternative order of disposition; imposition of sentence in county jail facility; violation of personal protection order.

Sec. 18. (1) If the court finds that a juvenile concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (10), if the court finds that a juvenile is within this chapter, the court may enter any of the following orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

(a) Warn the juvenile or the juvenile's parents, guardian, or custodian and, except as provided in subsection (7), dismiss the petition.

(b) Place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile. As used in this subdivision, "related" means being a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt by marriage, blood, or adoption. The court shall order the terms and conditions of probation or supervision, including reasonable rules for the conduct of the parents, guardian, or custodian, if any, as the court determines necessary for the physical, mental, or moral well-being and behavior of the juvenile.

(c) If a juvenile is within the court's jurisdiction under section 2(a) of this chapter, or under section 2(h) of this chapter for a supplemental petition, place the juvenile in a suitable foster care home subject to the court's supervision. If a juvenile is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a juvenile in a foster care home subject to the court's supervision.

(d) Except as otherwise provided in this subdivision, place the juvenile in or commit the juvenile to a private institution or agency approved or licensed by the department of consumer and industry services for the care of juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the family independence agency or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to such an institution or agency as the family independence agency or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates.

(e) Except as otherwise provided in this subdivision, commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the family independence agency or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to such an institution or facility as the family independence agency or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates. If a child is not less than 17 years of age and is in violation of a personal protection order, the court may commit the child to a county jail within the adult prisoner population. In a placement under subdivision (d) or a commitment under this subdivision, except to a state institution or a county juvenile agency institution, the juvenile's religious affiliation shall be protected by placement or commitment to a private child-placing or child-caring agency or institution, if available. Except for commitment to the family independence agency or a county juvenile agency, an order of commitment under this subdivision to a state institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to 400.214, the court shall name the superintendent of the institution to which the juvenile is committed as a special guardian to receive benefits due the juvenile from the government of the United States. An order of commitment under this subdivision to the family independence agency or a county juvenile agency shall name that agency as a special guardian to receive those benefits. The benefits received by the special guardian shall be used to the extent necessary to pay for the portions of the cost of care in the institution or facility that the parent or parents are found unable to pay.

(f) Provide the juvenile with medical, dental, surgical, or other health care, in a local hospital if available, or elsewhere, maintaining as much as possible a local physician-patient relationship, and with clothing and other incidental items the court determines are necessary.

(g) Order the parents, guardian, custodian, or any other person to refrain from continuing conduct that the court determines has caused or tended to cause the juvenile to come within or to remain under this chapter or that obstructs placement or commitment of the juvenile by an order under this section.

(h) Appoint a guardian under section 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, in response to a petition filed with the court by a person interested in the juvenile's welfare. If the court appoints a guardian as authorized by this subdivision, it may dismiss the petition under this chapter.

(i) Order the juvenile to engage in community service.

(j) If the court finds that a juvenile has violated a municipal ordinance or a state or federal law, order the juvenile to pay a civil fine in the amount of the civil or penal fine provided by the ordinance or law. Money collected from fines levied under this subsection shall be distributed as provided in section 29 of this chapter.

(k) Order the juvenile to pay court costs. Money collected from costs ordered under this subsection shall be distributed as provided in section 29 of this chapter.

(*l*) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, order the juvenile's parent or guardian to personally participate in treatment reasonably available in the parent's or guardian's location.

(m) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the family independence agency under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided in that act. If the county is a county juvenile agency, however, the court shall commit the juvenile to that county juvenile agency for placement in the program under that act. Upon receiving a report of satisfactory completion of the program from the family independence agency, the court shall authorize the juvenile's release from placement in the juvenile boot camp. Following satisfactory completion of the juvenile boot camp program, the juvenile shall complete an additional period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the juvenile's local community. To place or commit a juvenile under this subdivision, the court shall determine all of the following:

(*i*) Placement in a juvenile boot camp will benefit the juvenile.

(*ii*) The juvenile is physically able to participate in the program.

(*iii*) The juvenile does not appear to have any mental handicap that would prevent participation in the program.

(*iv*) The juvenile will not be a danger to other juveniles in the boot camp.

(*v*) There is an opening in a juvenile boot camp program.

(*vi*) If the court must commit the juvenile to a county juvenile agency, the county juvenile agency is able to place the juvenile in a juvenile boot camp program.

(n) If the court entered a judgment of conviction under section 2d of this chapter, enter any disposition under this section or, if the court determines that the best interests of the public would be served, impose any sentence upon the juvenile that could be imposed upon an adult convicted of the offense for which the juvenile was convicted. If the juvenile is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7403, the court may impose the alternative sentence permitted under that section if the court determines that the best interests of the public would be served. The court may delay imposing a sentence of imprisonment under this subdivision for a period not longer than the period during which the court has jurisdiction over the juvenile under this chapter by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon the terms and conditions it considers appropriate, including any disposition under this section. If the court delays imposing sentence under this section, section 18i of this chapter applies. If the court imposes sentence, it shall enter a judgment of sentence. If the court imposes a sentence of imprisonment, the juvenile shall receive credit against the sentence for time served before sentencing. In determining whether to enter an order of disposition or impose a sentence under this subdivision, the court shall consider all of the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

(*i*) The seriousness of the offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(*ii*) The juvenile's culpability in committing the offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(*iii*) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(*iv*) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(*v*) The adequacy of the punishment or programming available in the juvenile justice system.

(*vi*) The dispositional options available for the juvenile.

(2) An order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state, county juvenile agency, or court supervision shall contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. The order shall be reasonable, taking into account both the income and resources of the juvenile, parent, guardian, or custodian. The amount may be based upon the guidelines and

model schedule created under subsection (6). If the juvenile is receiving an adoption support subsidy under sections 115f to 115*l* of the social welfare act, 1939 PA 280, MCL 400.115f to 400.115*l*, the amount shall not exceed the amount of the support subsidy. The reimbursement provision applies during the entire period the juvenile remains in care outside of the juvenile's own home and under state, county juvenile agency, or court supervision, unless the juvenile is in the permanent custody of the court. The court shall provide for the collection of all amounts ordered to be reimbursed and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under state, county juvenile agency, or court supervision. Twenty-five percent of all amounts collected under an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected under an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state, county juvenile agency, or court supervision. The court may also collect from the government of the United States benefits paid for the cost of care of a court ward. Money collected for juveniles placed by the court with or committed to the family independence agency or a county juvenile agency shall be accounted for and reported on an individual juvenile basis. In cases of delinquent accounts, the court may also enter an order to intercept state or federal tax refunds of a juvenile, parent, guardian, or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service. The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice shall include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount.

(3) An order of disposition placing a juvenile in the juvenile's own home under subsection (1)(b) may contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of service. If an order is entered under this subsection, an amount due shall be determined and treated in the same manner provided for an order entered under subsection (2).

(4) An order directed to a parent or a person other than the juvenile is not effective and binding on the parent or other person unless opportunity for hearing is given by issuance of summons or notice as provided in sections 12 and 13 of this chapter and until a copy of the order, bearing the seal of the court, is served on the parent or other person as provided in section 13 of this chapter.

(5) If the court appoints an attorney to represent a juvenile, parent, guardian, or custodian, the court may require in an order entered under this section that the juvenile, parent, guardian, or custodian reimburse the court for attorney fees.

(6) The office of the state court administrator, under the supervision and direction of the supreme court and in consultation with the family independence agency and the Michigan probate judges association, shall create guidelines and a model schedule the court may use in determining the ability of the juvenile, parent, guardian, or custodian to pay for care and any costs of service ordered under subsection (2) or (3). The guidelines and model schedule shall take into account both the income and resources of the juvenile, parent, guardian, or custodian.

(7) If the court finds that a juvenile comes under section 30 of this chapter, the court shall order the juvenile or the juvenile's parent to pay restitution as provided in sections 30 and 31 of this chapter and in sections 44 and 45 of the crime victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

(8) If the court imposes restitution as a condition of probation, the court shall require the juvenile to do either of the following as an additional condition of probation:

(a) Engage in community service or, with the victim's consent, perform services for the victim.

(b) Seek and maintain paid employment and pay restitution to the victim from the earnings of that employment.

(9) If the court finds that the juvenile is in intentional default of the payment of restitution, a court may, as provided in section 31 of this chapter, revoke or alter the terms and conditions of probation for nonpayment of restitution. If a juvenile who is ordered to engage in community service intentionally refuses to perform the required community service, the court may revoke or alter the terms and conditions of probation.

(10) The court shall not enter an order of disposition for a juvenile offense as defined in section 1a of 1925 PA 289, MCL 28.241a, or a judgment of sentence for a conviction until the court has examined the court file and has determined that the juvenile's fingerprints have been taken and forwarded as required by section 3 of 1925 PA 289, MCL 28.243, and as required by the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732. If a juvenile has not had his or her fingerprints taken, the court shall do either of the following:

(a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the juvenile's arrest so the juvenile's fingerprints can be taken and forwarded.

(b) Order the juvenile committed to the sheriff's custody for taking and forwarding the juvenile's fingerprints.

(11) Upon final disposition, conviction, acquittal, or dismissal of an offense within the court's jurisdiction under section 2(a)(1) of this chapter, using forms approved by the state court administrator, the clerk of the court entering the final

disposition, conviction, acquittal, or dismissal shall immediately advise the department of state police of that final disposition, conviction, acquittal, or dismissal as required by section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police shall include information as to the finding of the judge or jury and a summary of the disposition or sentence imposed.

(12) If the court enters an order of disposition based on an act that is a juvenile offense as defined in section 1 of 1989 PA 196, MCL 780.901, the court shall order the juvenile to pay the assessment as provided in that act. If the court enters a judgment of conviction under section 2d of this chapter for an offense that is a felony, serious misdemeanor, or specified misdemeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the court shall order the juvenile to pay the assessment as provided in that act.

(13) If the court has entered an order of disposition or a judgment of conviction for a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court, the family independence agency, or the county juvenile agency shall register the juvenile or accept the juvenile's registration as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732.

(14) If the court enters an order of disposition placing a juvenile in a juvenile boot camp program, or committing a juvenile to a county juvenile agency for placement in a juvenile boot camp program, and the court receives from the family independence agency a report that the juvenile has failed to perform satisfactorily in the program, that the juvenile does not meet the program's requirements or is medically unable to participate in the program for more than 25 days, that there is no opening in a juvenile boot camp program, or that the county juvenile agency is unable to place the juvenile in a juvenile boot camp program, the court shall release the juvenile from placement or commitment and enter an alternative order of disposition. A juvenile shall not be placed in a juvenile boot camp under an order of disposition more than once, except that a juvenile returned to the court for a medical condition, because there was no opening in a juvenile boot camp program, or because the county juvenile agency was unable to place the juvenile in a juvenile boot camp program may be placed again in the juvenile boot camp program after the medical condition is corrected, an opening becomes available, or the county juvenile agency is able to place the juvenile.

(15) If the juvenile is within the court's jurisdiction under section 2(a)(*i*) of this chapter for an offense other than a listed offense as defined in section 2(d)(*i*) to (*ix*) and (*xi*) to (*xiii*) of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall determine if the offense is a violation of a law of this state or a local ordinance of a municipality of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age. If so, the order of disposition is for a listed offense as defined in section 2(d)(*x*) of the sex offenders registration act, 1994 PA 295, MCL 28.722, and the court shall include the basis for that determination on the record and include the determination in the order of disposition.

(16) The court shall not impose a sentence of imprisonment in the county jail under subsection (1)(n) unless the present county jail facility for the juvenile's imprisonment would meet all requirements under federal law and regulations for housing juveniles. The court shall not impose the sentence until it consults with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile.

(17) In a proceeding under section 2(h) of this chapter, this section only applies to a disposition for a violation of a personal protection order and subsequent proceedings.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944;—CL 1948, 712A.18;—Am. 1953, Act 139, Eff. Oct. 2, 1953;—Am. 1963, Act 65, Imd. Eff. May 8, 1963;—Am. 1972, Act 175, Imd. Eff. June 16, 1972;—Am. 1982, Act 398, Imd. Eff. Dec. 28, 1982;—Am. 1988, Act 71, Eff. June 1, 1988;—Am. 1988, Act 72, Eff. June 1, 1988;—Am. 1988, Act 224, Eff. Apr. 1, 1989;—Am. 1989, Act 112, Imd. Eff. June 23, 1989;—Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 344, Eff. May 1, 1994;—Am. 1994, Act 355, Eff. Oct. 1, 1995;—Am. 1996, Act 243, Eff. Aug. 1, 1996;—Am. 1996, Act 244, Eff. Aug. 1, 1996;—Am. 1997, Act 163, Eff. Mar. 31, 1998;—Am. 1998, Act 474, Eff. Mar. 1, 1999;—Am. 1998, Act 478, Eff. Jan. 12, 1999;—Am. 1999, Act 86, Eff. Sept. 1, 1999;—Am. 2000, Act 55, Eff. Apr. 1, 2000.

Former law: See sections 18, 20, 21, and 22 of Ch. XII of Act 288 of 1939; CL 1929, §§ 12838 and 12840; Act 30 of 1931; and Act 260 of 1937.

712A.18g Commitment under § 712A.18(1)(e).

Sec. 18g. (1) In addition to any other disposition under this act, a juvenile other than a juvenile sentenced in the same manner as an adult under section 18(1)(n) of this chapter shall be committed under section 18(1)(e) of this chapter to a detention facility for a specified period of time if all of the following circumstances exist:

(a) The juvenile is under the jurisdiction of the juvenile division of the probate court under section 2(a)(1) of this chapter.

(b) The juvenile is adjudicated as or convicted of violating a criminal municipal ordinance or law of this state or the United States.

(c) The juvenile is found to have used a firearm during the criminal violation.

(2) The period of time specified under subsection (1) shall not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult.

(3) "Firearm" means that term as defined in section 3t of chapter 1 of the Revised Statutes of 1846, being section 8.3t of the Michigan Compiled Laws.

History: Add. 1996, Act 258, Eff. Jan. 1, 1997.

THE MICHIGAN PENAL CODE (EXCERPTS)
Act 328 of 1931

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1991, Act 56, Eff. Jan. 1, 1992.

The People of the State of Michigan enact:

CHAPTER XI

ASSAULTS

750.82 Felonious assault; violation of subsection (1) in weapon free school zone; definitions.

Sec. 82. (1) Except as provided in subsection (2), a person who assaults another person with a gun, revolver, pistol, knife, iron bar, club, brass knuckles, or other dangerous weapon without intending to commit murder or to inflict great bodily harm less than murder is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(2) A person who violates subsection (1) in a weapon free school zone is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) Community service for not more than 150 hours.

(c) A fine of not more than $6,000.00.

(3) As used in this section:

(a) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(b) "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

(c) "Weapon free school zone" means school property and a vehicle used by a school to transport students to or from school property.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.82;—Am. 1994, Act 158, Eff. Aug. 15, 1994.

Former law: See section 1 of Act 232 of 1913, being CL 1915, § 15228; CL 1929, § 16747; and Act 241 of 1915.

750.89 Assault with intent to rob and steal; armed.

Sec. 89. Assault with intent to rob and steal being armed—Any person, being armed with a dangerous weapon, or any article used or fashioned in a manner to lead a person so assaulted reasonably to believe it to be a dangerous weapon, who shall assault another with intent to rob and steal shall be guilty of a felony, punishable by imprisonment in the state prison for life, or for any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 94, Eff. Sept. 29, 1939;—CL 1948, 750.89.

Former law: See section 16 of Ch. 153 of R.S. 1846, being CL 1857, § 5726; CL 1871, § 7525; How., § 9090; CL 1897, § 11485; CL 1915, § 15207; CL 1929, § 16723; Act 143 of 1869; and Act 374 of 1927.

CHAPTER XVI

BREAKING AND ENTERING

750.110a Definitions; home invasion; first degree; second degree; third degree; penalties.

Sec. 110a. (1) As used in this section:

(a) "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(b) "Dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) "Without permission" means without having obtained permission to enter from the owner or lessee of the dwelling or from any other person lawfully in possession or control of the dwelling.

(2) A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

(3) A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the second degree.

(4) A person is guilty of home invasion in the third degree if the person does either of the following:

(a) Breaks and enters a dwelling with intent to commit a misdemeanor in the dwelling, enters a dwelling without permission with intent to commit a misdemeanor in the dwelling, or breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a misdemeanor.

(b) Breaks and enters a dwelling or enters a dwelling without permission and, at any time while the person is entering, present in, or exiting the dwelling, violates any of the following ordered to protect a named person or persons:

(*i*) A probation term or condition.

(*ii*) A parole term or condition.

(*iii*) A personal protection order term or condition.

(*iv*) A bond or bail condition or any condition of pretrial release.

(5) Home invasion in the first degree is a felony punishable by imprisonment for not more than 20 years or a fine of not more than $5,000.00, or both.

(6) Home invasion in the second degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than $3,000.00, or both.

(7) Home invasion in the third degree is a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,000.00, or both.

(8) The court may order a term of imprisonment imposed for home invasion in the first degree to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

(9) Imposition of a penalty under this section does not bar imposition of a penalty under any other applicable law.

History: Add. 1994, Act 270, Eff. Oct. 1, 1994;—Am. 1999, Act 44, Eff. Oct. 1, 1999.

CHAPTER XXVA

CRIMINAL ENTERPRISES

750.159g "Racketeering" defined.

Sec. 159g. As used in this chapter, "racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the following:

(a) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, concerning tobacco product taxes, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(b) A violation of section 11151(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.

(c) A felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.7766a, concerning controlled substances or androgenic anabolic steroids.

(d) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(e) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

(f) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(g) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

(i) A felony violation of section 72, 73, 74, 75, or 77, concerning arson.

(j) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, and property.

(k) A violation of section 110 or 110a, concerning breaking and entering or home invasion.

(*l*) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(m) A violation of section 120a, concerning jury tampering.

(n) A violation of section 145c, concerning child sexually abusive activity or material.

(o) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(p) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(q) A felony violation of chapter XXXIII, concerning explosives and bombs.

(r) A violation of section 213, concerning extortion.

(s) A felony violation of section 218, concerning false pretenses.

(t) A felony violation of section 223(2), 224(1)(a), (b), or (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning firearms or dangerous weapons.

(u) A felony violation of chapter XLI, concerning forgery and counterfeiting.

(v) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(w) A violation of section 300a, concerning food stamps or coupons or access devices.

(x) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(y) A violation of section 316 or 317, concerning murder.

(z) A violation of section 330, 331, or 332, concerning horse racing.

(aa) A violation of section 349, 349a, or 350, concerning kidnapping.

(bb) A felony violation of chapter LII, concerning larceny.

(cc) A violation of section 411k, concerning money laundering.

(dd) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(ee) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(ff) A violation of section 529, 529a, 530, or 531, concerning robbery.

(gg) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.

(hh) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.

(ii) An offense committed within this state or another state that constitutes racketeering activity as defined in section 1961(1) of title 18 of the United States Code, 18 U.S.C. 1961.

(jj) An offense committed within this state or another state in violation of a law of the United States that is substantially similar to a violation listed in subdivisions (a) through (hh).

(kk) An offense committed in another state in violation of a statute of that state that is substantially similar to a violation listed in subdivisions (a) through (hh).

History: Add. 1995, Act 187, Eff. Apr. 1, 1996;—Am. 1997, Act 75, Imd. Eff. July 17, 1997.

CHAPTER XXVIII

DISORDERLY PERSONS

750.167a Person hunting with firearms while drunk or intoxicated; confiscation and disposition of weapons; application for or possession of hunting license for period of 3 years prohibited.

Sec. 167a. Any person who shall be drunk or intoxicated while hunting with a firearm or other weapon under a valid hunting license shall be deemed to be a disorderly person. Upon conviction of such person, the weapon shall be confiscated and shall be delivered to the department of natural resources for disposition in the same manner as weapons confiscated for

other violations of the game laws. Upon conviction under this section, the person so convicted, in addition to any punishment imposed pursuant to section 168, and as a part of any sentence imposed, shall be forbidden to apply for or possess a hunting license for a period of 3 years following the date of conviction. A violation of the conditions of such sentence shall be deemed to be a misdemeanor.

History: Add. 1952, Act 30, Eff. Sept. 18, 1952;—Am. 1987, Act 148, Imd. Eff. Oct. 26, 1987.

CHAPTER XXX

DUELLING

750.171 Engaging in or challenging to fight duel.

Sec. 171. Engaging in or challenging to fight duel—Any person who shall engage in a duel with any deadly weapon, although no homicide ensue, or who shall challenge another to fight such duel, or shall send or deliver any written or verbal message, purporting or intended to be such challenge, although no duel ensue, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than 5,000 dollars, and shall also be incapable of holding or of being elected or appointed to any place of honor, profit or trust, under the constitution or laws of this state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.171.

Former law: See section 7 of Ch. 153 of R.S. 1846, being CL 1857, § 5717; CL 1871, § 7516; How., § 9081; CL 1897, § 11476; CL 1915, § 15198; and CL 1929, § 16714.

750.172 Accepting challenge and abetting duel.

Sec. 172. Accepting challenge and abetting a duel—Any person who shall accept any such challenge, or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not, and every person who shall be present at the fighting of a duel with deadly weapons as an aid or second, or surgeon, or who shall advise, encourage or promote such duel, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars, and shall also be disqualified as mentioned in the preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.172.

Former law: See section 8 of Ch. 153 of R.S. 1846, being CL 1857, § 5718; CL 1871, § 7517; How., § 9082; CL 1897, § 11477; CL 1915, § 15199; and CL 1929, § 16715.

CHAPTER XXXII

ESCAPES, RESCUES, JAIL AND PRISON BREAKING

750.183 Aiding escape of and rescuing prisoners; penalty.

Sec. 183. Aiding escape of and rescuing prisoners—Any person who shall convey into any jail, prison, or other like place of confinement, any disguise or any instrument, tool, weapon or other thing, adapted or useful to aid any prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or shall by any means whatever, aid or assist any such prisoner in his endeavor to make his escape therefrom, whether such escape be effected or attempted, or not, and every person who shall forcibly rescue any prisoner, held in custody upon any conviction or charge of an offense, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years; or, if the person whose escape or rescue was effected or intended, was charged with an offense not capital, nor punishable by imprisonment in the state prison, then the offense mentioned in this section shall be a misdemeanor and shall be punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than 500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.183.

Former law: See section 11 of Ch. 156 of R.S. 1846, being CL 1857, § 5830; CL 1871, § 7663; How., § 9245; CL 1897, § 11315; CL 1915, § 14982; and CL 1929, § 16573.

750.197c Breaking or escaping jail, health care facility, or other place of confinement; definitions.

Sec. 197c. (1) A person lawfully imprisoned in a jail, other place of confinement established by law for any term, or lawfully imprisoned for any purpose at any other place, including but not limited to hospitals and other health care facilities or awaiting examination, trial, arraignment, sentence, or after sentence awaiting or during transfer to or from a prison, for a crime or offense, or charged with a crime or offense who, without being discharged from the place of confinement, or other lawful imprisonment by due process of law, through the use of violence, threats of violence or dangerous weapons, assaults an employee of the place of confinement or other custodian knowing the person to be an employee or custodian or breaks the place of confinement and escapes, or breaks the place of confinement although an escape is not actually made, is guilty of a felony.

(2) As used in this section:

(a) "Place of confinement" includes a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(b) "Employee" includes persons who are employed by the place of confinement as independent contractors.

History: Add. 1967, Act 59, Eff. Nov. 2, 1967;—Am. 1976, Act 188, Eff. Jan. 1, 1977;—Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999.

CHAPTER XXXIII

EXPLOSIVES AND BOMBS, AND HARMFUL DEVICES

750.200 Explosives; common carriers for passengers; transportation.

Sec. 200. (1) A person shall not transport, carry, or convey dynamite, gunpowder, or any other explosive between any places within this state on any vessel, car, or vehicle of any description that is operated by a common carrier and that is carrying passengers for hire. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

(2) This section does not prohibit the transportation of any of the following:

(a) Small arms ammunition in any quantity.

(b) Fuses, torpedoes, rockets, or other signal devices essential to promote safety in operation.

(c) Properly packed and marked samples for laboratory examination that do not exceed a net weight of 1/2 pound each and that do not exceed 20 samples at 1 time in a single vessel, car, or vehicle if the samples are not carried in that part of a vessel, car, or vehicle that is intended for transporting passengers for hire.

(3) This section does not prohibit the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars, or vehicles.

(4) This section does not apply to the transportation of benzine, naphtha, gasoline, or kerosene.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.200;—Am. 1998, Act 206, Eff. Oct. 1, 1998.

Former law: See section 1 of Act 182 of 1909, being CL 1915, § 15251; and CL 1929, § 16795.

CHAPTER XXXVII

FIREARMS

750.222 Definitions.

Sec. 222. As used in this chapter:

(a) "Barrel length" means the internal length of a firearm as measured from the face of the closed breech of the firearm when it is unloaded, to the forward face of the end of the barrel.

(b) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(c) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(d) "Purchaser" means a person who receives a pistol from another person by purchase, gift, or loan.

(e) "Seller" means a person who sells, furnishes, loans, or gives a pistol to another person.

(f) "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.

(g) "Short-barreled shotgun" means a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

(h) "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(i) "Short-barreled rifle" means a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.222;—Am. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1978, Act 564, Imd. Eff. Dec. 29, 1978;—Am. 1992, Act 217, Imd. Eff. Oct. 13, 1992.

750.222a "Double-edged, nonfolding stabbing instrument" defined.

Sec. 222a. (1) As used in this chapter, "doubled-edged, nonfolding stabbing instrument" does not include a knife, tool, implement, arrowhead, or artifact manufactured from stone by means of conchoidal fracturing.

(2) Subsection (1) does not apply to an item being transported in a vehicle, unless the item is in a container and inaccessible to the driver.

History: Add. 2000, Act 343, Imd. Eff. Dec. 27, 2000.

750.223 Selling firearms and ammunition; violations; penalties; "licensed dealer" defined.

Sec. 223. (1) A person who knowingly sells a pistol without complying with section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(2) A person who knowingly sells a firearm more than 30 inches in length to a person under 18 years of age is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both. A second or subsequent violation of this subsection is a felony punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both. It is an affirmative defense to a prosecution under this subsection that the person who sold the firearm asked to see and was shown a driver's license or identification card issued by a state that identified the purchaser as being 18 years of age or older.

(3) A seller shall not sell a firearm or ammunition to a person if the seller knows that either of the following circumstances exists:

(a) The person is under indictment for a felony. As used in this subdivision, "felony" means a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for 4 years or more.

(b) The person is prohibited under section 224f from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm.

(4) A person who violates subsection (3) is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a fine of not more than $5,000.00, or both.

(5) As used in this section, "licensed dealer" means a person licensed under section 923 of chapter 44 of title 18 of the United States Code who regularly buys and sells firearms as a commercial activity with the principal objective of livelihood and profit.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.223;—Am. 1969, Act 210, Eff. Mar. 20, 1970;—Am. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 217, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 221, Eff. Mar. 31, 1993.

750.224 Weapons; manufacture, sale, or possession as felony; exceptions; "muffler" or "silencer" defined.

Sec. 224. (1) A person shall not manufacture, sell, offer for sale, or possess any of the following:

(a) A machine gun or firearm that shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger.

(b) A muffler or silencer.

(c) A bomb or bombshell.

(d) A blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon.

(e) A device, weapon, cartridge, container, or contrivance designed to render a person temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

(2) A person who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than $2,500.00, or both.

(3) Subsection (1) does not apply to any of the following:

(a) A self-defense spray device as defined in section 224d.

(b) A person manufacturing firearms, explosives, or munitions of war by virtue of a contract with a department of the government of the United States.

(c) A person licensed by the secretary of the treasury of the United States or the secretary's delegate to manufacture, sell, or possess a machine gun, or a device, weapon, cartridge, container, or contrivance described in subsection (1).

(4) As used in this chapter, "muffler" or "silencer" means 1 or more of the following:

(a) A device for muffling, silencing, or deadening the report of a firearm.

(b) A combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer.

(c) A part, designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.224;—Am. 1959, Act 175, Eff. Mar. 19, 1960;—Am. 1978, Act 564, Imd. Eff. Dec. 29, 1978;—Am. 1980, Act 346, Eff. Mar. 31, 1981;—Am. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1991, Act 33, Imd. Eff. June 10, 1991.

Constitutionality: The Michigan supreme court held that the statute was not unconstitutionally vague as applied to the defendant in People v. Lynch, 410 Mich. 343, 301 N.W.2d 796 (1981).

Former law: See section 3 of Act 372 of 1927, being CL 1929, § 16751; and Act 206 of 1929.

750.224a Portable device or weapon directing electrical current, impulse, wave, or beam; sale or possession prohibited; testing.

Sec. 224a. (1) A person shall not sell, offer for sale, or possess in this state a portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, or kill.

(2) This section shall not prohibit delivery to or possession by the department of state police or any agency or laboratory with prior written approval of, and on conditions established by, the director of the department of state police for the purpose of testing such a device or weapon.

(3) A person who violates this section is guilty of a felony.

History: Add. 1976, Act 106, Eff. July 1, 1976.

750.224b Short-barreled shotgun or rifle; manufacture, sale, or possession as felony; penalty; exceptions; applicability of § 776.20.

Sec. 224b. (1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than $2,500.00, or both.

(3) The provisions of this section shall not apply to the sale, offering for sale or possession of a short-barreled rifle or a short-barreled shotgun which the secretary of the treasury of the United States of America, or his delegate, pursuant to U.S.C. title 26, section 5801 through 5872, or U.S.C. title 18, sections 921 through 928, has found to be a curio, relic, antique, museum piece or collector's item not likely to be used as a weapon, but only if the person selling, offering for sale or possessing the firearm has also fully complied with the provisions of sections 2 and 9 of Act No. 372 of the Public Acts of 1927, as amended, being sections 28.422 and 28.429 of the Michigan Compiled Laws.

The provisions of section 20 of chapter 16 of Act No. 175 of the Public Acts of 1927, as added by Act No. 299 of the Public Acts of 1968, being section 776.20 of the Michigan Compiled Laws, are applicable to this subsection.

History: Add. 1978, Act 564, Imd. Eff. Dec. 29, 1978.

750.224c Armor piercing ammunition; manufacture, distribution, sale, or use prohibited; exceptions; violation as felony; penalty; definitions; exemption of projectile or projectile core; rule.

Sec. 224c. (1) Except as provided in subsection (2), a person shall not manufacture, distribute, sell, or use armor piercing ammunition in this state. A person who willfully violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $2,000.00, or both.

(2) This section does not apply to either of the following:

(a) A person who manufactures, distributes, sells, or uses armor piercing ammunition in this state, if that manufacture, distribution, sale, or use is not in violation of chapter 44 of title 18 of the United States Code.

(b) A licensed dealer who sells or distributes armor piercing ammunition in violation of this section if the licensed dealer is subject to license revocation under chapter 44 of title 18 of the United States Code for that sale or distribution.

(3) As used in this section:

(a) "Armor piercing ammunition" means a projectile or projectile core which may be used in a pistol and which is constructed entirely, excluding the presence of traces of other substances, of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or a combination of tungsten alloys, steel, iron, brass, bronze, or beryllium copper. Armor piercing ammunition does not include any of the following:

(*i*) Shotgun shot that is required by federal law or by a law of this state to be used for hunting purposes.

(*ii*) A frangible projectile designed for target shooting.

(*iii*) A projectile that the director of the department of state police finds is primarily intended to be used for sporting purposes.

(*iv*) A projectile or projectile core that the director of the department of state police finds is intended to be used for industrial purposes.

(b) "Licensed dealer" means a person licensed under chapter 44 of title 18 of the United States Code to deal in firearms or ammunition.

(4) The director of the department of state police shall exempt a projectile or projectile core under subsection (3)(a)(*iii*) or (*iv*) if that projectile or projectile core is exempted under chapter 44 of title 18 of the United States Code. The director of state police shall exempt a projectile or projectile core under subsection (3)(a)(*iii*) or (*iv*) only by a rule promulgated in compliance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1990, Act 318, Eff. Mar. 28, 1991.

750.224d Self-defense spray device.

Sec. 224d. (1) As used in this section and section 224, "self-defense spray device" means a device to which all of the following apply:

(a) The device is capable of carrying, and ejects, releases, or emits 1 of the following:

(*i*) Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.

(*ii*) A solution containing not more than 2% oleoresin capsicum.

(b) The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in subdivision (a)(*i*) or (*ii*).

(2) Except as otherwise provided in this section, a person who uses a self-defense spray device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $2,000.00, or both.

(3) If a person uses a self-defense spray device during the commission of a crime to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum or threatens to use a self-defense spray device during the commission of a crime to temporarily or permanently disable another person, the judge who imposes sentence upon a conviction for that crime shall consider the defendant's use or threatened use of the self-defense spray device as a reason for enhancing the sentence.

(4) A person shall not sell a self-defense spray device to a minor. A person who violates this subsection is guilty of a misdemeanor.

(5) Subsection (2) does not prohibit either of the following:

(a) The reasonable use of a self-defense spray device by a law enforcement officer in the performance of the law enforcement officer's duty.

(b) The reasonable use of a self-defense spray device by a person in the protection of a person or property under circumstances which would justify the person's use of physical force.

History: Add. 1980, Act 346, Eff. Mar. 31, 1981;—Am. 1991, Act 33, Imd. Eff. June 10, 1991;—Am. 1992, Act 4, Imd. Eff. Feb. 21, 1992.

750.224e Conversion of semiautomatic firearm to fully automatic firearm; prohibited acts; penalty; applicability; "fully automatic firearm", "licensed collector", and "semiautomatic firearm" defined.

Sec. 224e. (1) A person shall not knowingly do any of the following:

(a) Manufacture, sell, distribute, or possess or attempt to manufacture, sell, distribute, or possess a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm.

(b) Demonstrate to another person or attempt to demonstrate to another person how to manufacture or install a device to convert a semiautomatic firearm into a fully automatic firearm.

(2) A person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both.

(3) This section does not apply to any of the following:

(a) A police agency of this state, or of a local unit of government of this state, or of the United States.

(b) An employee of an agency described in subdivision (a), if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as an employee of that agency.

(c) The armed forces.

(d) A member or employee of the armed forces, if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as a member or employee of the armed forces.

(e) A licensed collector who possesses a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm that was lawfully owned by that licensed collector before the effective date of the amendatory act that added this section. This subdivision does not permit a licensed collector who lawfully owned a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm before the effective date of the amendatory act that added this section to sell or distribute or attempt to sell or distribute that device to another person after the effective date of the amendatory act that added this section.

(4) As used in this section:

(a) "Fully automatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(b) "Licensed collector" means a person who is licensed under chapter 44 of title 18 of the United States code to acquire, hold, or dispose of firearms as curios or relics.

(c) "Semiautomatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, but requiring renewed pressure on the trigger for each successive shot.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.224f Possession of firearm by person convicted of felony; circumstances; penalty; applicability of section to expunged or set aside conviction; "felony" and "specified felony" defined.

Sec. 224f. (1) Except as provided in subsection (2), a person convicted of a felony shall not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in this state until the expiration of 3 years after all of the following circumstances exist:

(a) The person has paid all fines imposed for the violation.

(b) The person has served all terms of imprisonment imposed for the violation.

(c) The person has successfully completed all conditions of probation or parole imposed for the violation.

(2) A person convicted of a specified felony shall not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in this state until all of the following circumstances exist:

(a) The expiration of 5 years after all of the following circumstances exist:

(*i*) The person has paid all fines imposed for the violation.

(*ii*) The person has served all terms of imprisonment imposed for the violation.

(*iii*) The person has successfully completed all conditions of probation or parole imposed for the violation.

(b) The person's right to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm has been restored pursuant to section 4 of Act No. 372 of the Public Acts of 1927, being section 28.424 of the Michigan Compiled Laws.

(3) A person who possesses, uses, transports, sells, purchases, carries, ships, receives, or distributes a firearm in violation of this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than $5,000.00, or both.

(4) This section does not apply to a conviction that has been expunged or set aside, or for which the person has been pardoned, unless the expunction, order, or pardon expressly provides that the person shall not possess a firearm.

(5) As used in this section, "felony" means a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for 4 years or more, or an attempt to violate such a law.

(6) As used in subsection (2), "specified felony" means a felony in which 1 or more of the following circumstances exist:

(*i*) An element of that felony is the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(*ii*) An element of that felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance.

(*iii*) An element of that felony is the unlawful possession or distribution of a firearm.

(*iv*) An element of that felony is the unlawful use of an explosive.

(*v*) The felony is burglary of an occupied dwelling, or breaking and entering an occupied dwelling, or arson.

History: Add. 1992, Act 217, Imd. Eff. Oct. 13, 1992.

750.226 Firearm or dangerous weapon; carrying with unlawful intent.

Sec. 226. Carrying firearm or dangerous weapon with unlawful intent—Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over 3 inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.226.

Former law: See section 4 of Act 372 of 1927, being CL 1929, § 16752.

750.226a Pocket knife opened by mechanical device; unlawful sale or possession; persons exempted.

Sec. 226a. Any person who shall sell or offer to sell, or any person who shall have in his possession any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not to exceed 1 year or by a fine of not to exceed $300.00, or both.

The provisions of this section shall not apply to any one-armed person carrying a knife on his person in connection with his living requirements.

History: Add. 1952, Act 233, Eff. Sept. 18, 1952.

750.227 Concealed weapons; carrying; penalty.

Sec. 227. (1) A person shall not carry a dagger, dirk, stiletto, a double-edged nonfolding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife adapted and carried as such, concealed on or about his or her person, or whether concealed or otherwise in any vehicle operated or occupied by the person, except in his or her dwelling house, place of business or on other land possessed by the person.

(2) A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or by a fine of not more than $2,500.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.227;—Am. 1973, Act 206, Eff. Mar. 29, 1974;—Am. 1986, Act 8, Eff. July 1, 1986.

Constitutionality: The double jeopardy protection against multiple punishment for the same offense is a restriction on a court's ability to impose punishment in excess of that intended by the Legislature, not a limit on the Legislature's power to define crime and fix punishment. People v. Sturgis, 427 Mich. 392, 397 N.W.2d 783 (1986).

Former law: See section 5 of Act 372 of 1927, being CL 1929, § 16753.

750.227a Pistols; unlawful possession by licensee.

Sec. 227a. Any person licensed in accordance with law to carry a pistol because he is engaged in the business of protecting the person or property of another, except peace officers of the United States, the state or any subdivision of the state railroad policemen appointed and commissioned under the provisions of Act No. 114 of the Public Acts of 1941, being sections 470.51 to 470.61 of the Compiled Laws of 1948 or those in the military service of the United States, who shall have a pistol in his possession while not actually engaged in the business of protecting the person or property of another, except in his dwelling house or on other land possessed by him, is guilty of a felony. This section shall not be construed to prohibit such person from carrying an unloaded pistol to or from his place of employment by the most direct route.

History: Add. 1966, Act 100, Eff. Mar. 10, 1967;—Am. 1967, Act 49, Eff. Nov. 2, 1967.

750.227b Carrying or possessing firearm when committing or attempting to commit felony; "law enforcement officer" defined.

Sec. 227b. (1) A person who carries or has in his or her possession a firearm when he or she commits or attempts to commit a felony, except a violation of section 223, section 227, 227a or 230, is guilty of a felony, and shall be imprisoned for 2 years. Upon a second conviction under this section, the person shall be imprisoned for 5 years. Upon a third or subsequent conviction under this subsection, the person shall be imprisoned for 10 years.

(2) A term of imprisonment prescribed by this section is in addition to the sentence imposed for the conviction of the felony or the attempt to commit the felony, and shall be served consecutively with and preceding any term of imprisonment imposed for the conviction of the felony or attempt to commit the felony.

(3) A term of imprisonment imposed under this section shall not be suspended. The person subject to the sentence mandated by this section is not eligible for parole or probation during the mandatory term imposed pursuant to subsection (1).

(4) This section does not apply to a law enforcement officer who is authorized to carry a firearm while in the official performance of his or her duties, and who is in the performance of those duties. As used in this subsection, "law enforcement officer" means a person who is regularly employed as a member of a duly authorized police agency or other organization of the United States, this state, or a city, county, township, or village of this state, and who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state.

History: Add. 1976, Act 6, Eff. Jan. 1, 1977;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

Constitutionality: The double jeopardy protection against multiple punishment for the same offense is a restriction on a court's ability to impose punishment in excess of that intended by the Legislature, not a limit on the Legislature's power to define crime and fix punishment. People v. Sturgis, 427 Mich. 392, 397 N.W.2d 783 (1986).

750.227c Transporting or possessing loaded firearm in or upon vehicle; violation as misdemeanor; penalty; applicability to person violating § 312.10(1)(g).

Sec. 227c. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a sailboat or a motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means, a firearm, other than a pistol, which is loaded.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $2,500.00, or both.

(3) This section does not apply to a person who violates section 10(1)(g) of chapter II of Act No. 286 of the Public Acts of 1929, as amended, being section 312.10 of the Michigan Compiled Laws.

History: Add. 1981, Act 103, Eff. Mar. 31, 1982.

750.227d Transporting or possessing firearm in or upon motor vehicle or self-propelled vehicle designed for land travel; conditions; violation as misdemeanor; penalty.

Sec. 227d. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a motor vehicle or any self-propelled vehicle designed for land travel a firearm, other than a pistol, unless the firearm is unloaded and is 1 or more of the following:

(a) Taken down.

(b) Enclosed in a case.

(c) Carried in the trunk of the vehicle.

(d) Inaccessible from the interior of the vehicle.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

History: Add. 1981, Act 103, Eff. Mar. 31, 1982.

750.227f Committing or attempting to commit crime involving violent act or threat of violent act against another person while wearing body armor as felony; penalty; consecutive term of imprisonment; exception; definitions.

Sec. 227f. (1) Except as provided in subsection (2), an individual who commits or attempts to commit a crime that involves a violent act or a threat of a violent act against another person while wearing body armor is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both. A term of imprisonment imposed for violating this section may be served consecutively to any term of imprisonment imposed for the crime committed or attempted.

(2) Subsection (1) does not apply to either of the following:

(a) A peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer while on or off a scheduled work shift as a peace officer.

(b) A security officer performing his or her duties as a security officer while on a scheduled work shift as a security officer.

(3) As used in this section:

(a) "Body armor" means clothing or a device designed or intended to protect an individual's body or a portion of an individual's body from injury caused by a firearm.

(b) "Security officer" means an individual lawfully employed to physically protect another individual or to physically protect the property of another person.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1996, Act 163, Imd. Eff. Apr. 11, 1996;—Am. 2000, Act 226, Eff. Oct. 1, 2000.

750.227g Body armor; purchase, ownership, possession, or use by convicted felon; prohibition; issuance of written permission; violation as felony; definitions.

Sec. 227g. (1) Except as otherwise provided in this section, a person who has been convicted of a violent felony shall not purchase, own, possess, or use body armor.

(2) A person who has been convicted of a violent felony whose employment, livelihood, or safety is dependent on his or her ability to purchase, own, possess, or use body armor may petition the chief of police of the local unit of government in which he or she resides or, if he or she does not reside in a local unit of government that has a police department, the county sheriff, for written permission to purchase, own, possess, or use body armor under this section.

(3) The chief of police of a local unit of government or the county sheriff may grant a person who properly petitions that chief of police or county sheriff under subsection (2) written permission to purchase, own, possess, or use body armor as provided in this section if the chief of police or county sheriff determines that both of the following circumstances exist:

(a) The petitioner is likely to use body armor in a safe and lawful manner.

(b) The petitioner has reasonable need for the protection provided by body armor.

(4) In making the determination required under subsection (3), the chief of police or county sheriff shall consider all of the following:

(a) The petitioner's continued employment.

(b) The interests of justice.

(c) Other circumstances justifying issuance of written permission to purchase, own, possess, or use body armor.

(5) The chief of police or county sheriff may restrict written permission issued to a petitioner under this section in any manner determined appropriate by that chief of police or county sheriff. If permission is restricted, the chief of police or county sheriff shall state the restrictions in the permission document.

(6) It is the intent of the legislature that chiefs of police and county sheriffs exercise broad discretion in determining whether to issue written permission to purchase, own, possess, or use body armor under this section. However, nothing in this section requires a chief of police or county sheriff to issue written permission to any particular petitioner. The issuance of written permission to purchase, own, possess, or use body armor under this section does not relieve any person or entity from criminal liability that might otherwise be imposed.

(7) A person who receives written permission from a chief of police or county sheriff to purchase, own, possess, or use body armor shall have that written permission in his or her possession when he or she is purchasing, owning, possessing, or using body armor.

(8) A law enforcement agency may issue body armor to a person who is in custody or who is a witness to a crime for his or her own protection without a petition being previously filed under subsection (2). If the law enforcement agency issues body armor to the person under this subsection, the law enforcement agency shall document the reasons for issuing body armor and retain a copy of that document as an official record. The law enforcement agency shall also issue written permission to the person to possess and use body armor under this section.

(9) A person who violates this section is guilty of a crime as follows:

(a) For a violation of subsection (1), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) For a violation of subsection (7), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(10) As used in this section:

(a) "Body armor" means that term as defined in section 227f.

(b) "Violent felony" means that term as defined in section 36 of 1953 PA 232, MCL 791.236.

History: Add. 2000, Act 224, Eff. Oct. 1, 2000.

750.228 Failure to have pistol inspected; applicability; penalty.

Sec. 228. (1) Except as provided in subsection (2), a person who fails to have his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927, being section 28.429 of the Michigan Compiled Laws, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 9 of Act No. 372 of the Public Acts of 1927, before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who has his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.228;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

Compiler's note: For provisions of section 9, referred to in this section, see § 28.429.

750.229 Pistols accepted in pawn, by second-hand dealer or junk dealer.

Sec. 229. Any pawnbroker who shall accept a pistol in pawn, or any second-hand or junk dealer, as defined in Act No. 350 of the Public Acts of 1917, who shall accept a pistol and offer or display the same for resale, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 236, Eff. Sept. 6, 1945;—CL 1948, 750.229.

Compiler's note: For provisions of Act 350 of 1917, referred to in this section, see § 445.401 *et seq*.

Former law: See section 10 of Act 372 of 1927, being CL 1929, § 16759.

750.230 Firearms; altering, removing, or obliterating marks of identity; presumption.

Sec. 230. A person who shall wilfully alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identity of a pistol or other firearm, shall be guilty of a felony, punishable by imprisonment for not more than 2 years or fine of not more than $1,000.00. Possession of a firearm upon which the number shall have been altered, removed, or obliterated, other than an antique firearm as defined by section 231a(2)(a) or (b), shall be presumptive evidence that the possessor has altered, removed, or obliterated the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.230;—Am. 1976, Act 32, Imd. Eff. Mar. 5, 1976.

Constitutionality: The statutory presumption contained in this section is unconstitutional. People v. Moore, 402 Mich. 538, 266 N.W.2d 145 (1978).

Former law: See section 11 of Act 372 of 1927, being CL 1929, § 16760.

750.231 Sections 750.224, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.

Sec. 231. Sections 224, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States, of this state, or of any political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) Any person regularly employed by the state department of corrections, and authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(d) Any member of the army, air force, navy, or marine corps of the United States when carrying weapons in line of or incidental to duty.

(e) Organizations authorized by law to purchase or receive weapons from the United States or from this state.

(f) Members of the national guard, armed forces reserves, or other duly authorized military organizations when on duty or drill, or in going to or returning from their places of assembly or practice by a direct route or otherwise, while carrying weapons used for purposes of the national guard, armed forces reserves, or other duly authorized military organizations.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.231;—Am. 1958, Act 107, Eff. Sept. 13, 1958;—Am. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1981, Act 103, Eff. Mar. 31, 1982;—Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999.

750.231a Persons to which § 750.227 inapplicable; "antique firearm" defined.

Sec. 231a. (1) Section 227 does not apply to any of the following:

(a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by another state except where the pistol is carried in nonconformance with a restriction appearing on the license.

(b) To the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

(c) To a person carrying an antique firearm as defined in subsection (2), completely unloaded, in a wrapper or container in the trunk of a vehicle while en route to or from a hunting or target shooting area or function involving the exhibition, demonstration or sale of antique firearms.

(d) To a person while carrying a pistol unloaded in a wrapper or container in the trunk of the person's vehicle, while in possession of a valid Michigan hunting license or proof of valid membership in an organization having pistol shooting range facilities, and while en route to or from a hunting or target shooting area.

(e) To a person while carrying a pistol unloaded in a wrapper or container in the trunk of the person's vehicle from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from one place of abode or business to another place of abode or business.

(f) To a person while carrying an unloaded pistol in the passenger compartment of a vehicle which does not have a trunk, if the person is otherwise complying with the requirements of subdivision (d) or (e) and the wrapper or container is not readily accessible to the occupants of the vehicle.

(2) As used in this section, "antique firearm" means either of the following:

(a) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898.

(b) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

History: Add. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1973, Act 191, Eff. Mar. 29, 1974;—Am. 1974, Act 55, Imd. Eff. Apr. 1, 1974;—Am. 1978, Act 280, Imd. Eff. July 6, 1978.

750.231b Sale and safety inspection; persons exempt.

Sec. 231b. Sections 223 and 228 do not apply to a duly authorized police or correctional agency of the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, nor to a member of such agencies or organizations for weapons used by him for the purposes of such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

History: Add. 1964, Act 215, Eff. Aug. 28, 1964.

750.231c "Aircraft," "approved signaling device," and "vessel" defined; sections inapplicable to approved signaling device; sale, purchase, possession, or use of approved signaling device; violation as misdemeanor; penalties.

Sec. 231c. (1) As used in this section:

(a) "Aircraft" means aircraft as defined in section 43.

(b) "Approved signaling device" means a pistol which is a signaling device approved by the United States coast guard pursuant to regulations issued under former section 4488 of the Revised Statutes of the United States, 46 U.S.C. Appx. 481, or under former section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

(c) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) Sections 223, 227, 228, 232, 232a, and 237 shall not apply to an approved signaling device.

(3) A person shall not sell an approved signaling device to a person, nor shall a person purchase an approved signaling device, unless the purchaser is 18 years of age or older and either of the following apply:

(a) The purchaser possesses and displays to the seller any of the following:

(*i*) A valid and current certificate of number issued pursuant to section 80124 of part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.80124 of the Michigan Compiled Laws, for a vessel.

(*ii*) If a vessel is considered in compliance with the numbering requirements of this state pursuant to section 80122 of part 801 of Act No. 451 of the Public Acts of 1994, being section 324.80122 of the Michigan Compiled Laws, proof of ownership or proof of the vessel's being numbered in another state.

(*iii*) If a vessel is not required to be numbered or to display a decal under part 801 of Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws, proof of ownership of the vessel.

(b) The purchaser is the holder of and displays to the seller a valid and effective airman's certificate of competency issued by the United States or a foreign government.

(4) A person may possess an approved signaling device only under the following circumstances:

(a) The possession occurs in the process of manufacturing, marketing, or sale of the device, including the transportation of the device as merchandise, and the device is unloaded.

(b) The device is on a vessel or on an aircraft.

(c) The device is at a person's residence.

(d) The person is en route from the place of purchase to the person's residence or the person's vessel or aircraft or between the person's residence and the person's vessel or aircraft.

(e) The device is in a vehicle other than a vessel or aircraft and all of the following apply:

(*i*) The device is unloaded.

(*ii*) The device is enclosed in a case and either is carried in the trunk of the vehicle which has a trunk or is otherwise not readily accessible to the occupants of the vehicle.

(*iii*) Subdivision (d) applies.

(5) A person shall not use an approved signaling device unless he or she reasonably believes that its use is necessary for the safety of the person or of another person on the waters of this state or in an aircraft emergency situation.

(6) A person who sells, purchases, or possesses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $200.00, or both.

(7) A person who uses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by a fine of not more than $200.00.

History: Add. 1982, Act 185, Eff. July 1, 1982;—Am. 1996, Act 80, Imd. Eff. Feb. 27, 1996.

750.232 Purchasers of firearms; registration.

Sec. 232. Registration of purchasers of pistols, etc.—Any person engaged in any way or to any extent in the business of selling at retail, guns, pistols, other fire-arms or silencers for fire-arms who shall fail or neglect to keep a register in which shall be entered the name, age, occupation and residence (if residing in the city with the street number of such residence) of each and every purchaser of such guns, pistols, other fire-arms or silencers for fire-arms together with the number or other mark of identification, if any, on such gun, pistol, other fire-arms or silencer for fire-arms, which said register shall be open to the inspection of all peace officers at all times, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.232.

Former law: See sections 1 and 2 of Act 250 of 1913, being CL 1915, §§ 15247 and 15248; and CL 1929, §§ 16768 and 16769.

750.232a Obtaining pistol in violation of § 28.422; intentionally making material false statement on application for license to purchase pistol; using or attempting to use false identification or identification of another person to purchase firearm; penalties.

Sec. 232a. (1) Except as provided in subsection (2), a person who obtains a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927 before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who obtains a license as required under section 2 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

(3) A person who intentionally makes a material false statement on an application for a license to purchase a pistol under section 2 of Act No. 372 of the Public Acts of 1927, as amended, is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both.

(4) A person who uses or attempts to use false identification or the identification of another person to purchase a firearm is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

History: Add. 1943, Act 54, Eff. July 30, 1943;—CL 1948, 750.232a;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

Compiler's note: For provisions of section 2, referred to in this section, see § 28.422.

750.233 Firearm; intentionally aiming without malice.

Sec. 233. Intentionally aiming fire-arm without malice—Any person who shall intentionally, without malice, point or aim any fire-arm at or toward any other person, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.233.

Former law: See section 1 of Act 68 of 1869, being CL 1871, § 7548; How., § 9110; CL 1897, § 11509; CL 1915, § 15232; and CL 1929, § 16776.

750.234 Firearm; discharge, intentionally aimed without malice.

Sec. 234. Discharge of fire-arm intentionally but without malice aimed at another—Any person who shall discharge, without injury to any other person, any fire-arm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.234.

Former law: See section 2 of Act 68 of 1869, being CL 1871, § 7548; How., § 9111; CL 1897, § 11510; CL 1915, § 15233; and CL 1929, § 16777.

750.234a Intentionally discharging firearm from motor vehicle, snowmobile, or off-road vehicle in manner that endangers safety of another individual as felony; penalty; exceptions.

Sec. 234a. (1) Except as provided in subsection (2) or (3), an individual who intentionally discharges a firearm from a motor vehicle, a snowmobile, or an off-road vehicle in such a manner as to endanger the safety of another individual is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both.

(2) Subsection (1) does not apply to a peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer while on or off a scheduled work shift as a peace officer.

(3) Subsection (1) does not apply to an individual who discharges a firearm in self-defense or the defense of another individual.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1996, Act 163, Imd. Eff. Apr. 11, 1996.

750.234b Intentionally discharging firearm at dwelling or occupied structure as felony; penalty; exceptions; "dwelling" and "occupied structure" defined.

Sec. 234b. (1) Except as provided in subsection (3) or (4), an individual who intentionally discharges a firearm at a facility that he or she knows or has reason to believe is a dwelling or an occupied structure is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both.

(2) An individual who intentionally discharges a firearm in a facility that he or she knows or has reason to believe is an occupied structure in reckless disregard for the safety of any individual is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both.

(3) Subsections (1) and (2) do not apply to a peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer.

(4) Subsections (1) and (2) do not apply to an individual who discharges a firearm in self-defense or the defense of another individual.

(5) As used in this section:

(a) "Dwelling" means a facility habitually used by 1 or more individuals as a place of abode, whether or not an individual is present in the facility.

(b) "Occupied structure" means a facility in which 1 or more individuals are present.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992.

750.234c Intentionally discharging firearm at emergency or law enforcement vehicle as felony; penalty; "emergency or law enforcement vehicle" defined.

Sec. 234c. (1) An individual who intentionally discharges a firearm at a motor vehicle that he or she knows or has reason to believe is an emergency or law enforcement vehicle is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both.

(2) As used in this section, "emergency or law enforcement vehicle" means 1 or more of the following:

(a) A motor vehicle owned or operated by a fire department of a local unit of government of this state.

(b) A motor vehicle owned or operated by a police agency of the United States, of this state, or of a local unit of government of this state.

(c) A motor vehicle owned or operated by the department of natural resources that is used for law enforcement purposes.

(d) A motor vehicle owned or operated by an entity licensed to provide emergency medical services under part 192 of article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20901 to 333.20979 of the Michigan Compiled Laws, and that is used to provide emergency medical assistance to individuals.

(e) A motor vehicle owned or operated by a volunteer employee or paid employee of an entity described in subdivisions (a) to (c) while the motor vehicle is being used to perform emergency or law enforcement duties for that entity.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.234d Possession of firearm on certain premises prohibited; applicability; violation as misdemeanor; penalty.

Sec. 234d. (1) Except as provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

(a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.

(b) A church or other house of religious worship.

(c) A court.

(d) A theatre.

(e) A sports arena.

(f) A day care center.

(g) A hospital.

(h) An establishment licensed under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(2) This section does not apply to any of the following:

(a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.

(b) A peace officer.

(c) A person licensed by this state or another state to carry a concealed weapon.

(d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1994, Act 158, Eff. Aug. 15, 1994.

750.234e Brandishing firearm in public; applicability; violation as misdemeanor; penalty.

Sec. 234e. (1) Except as provided in subsection (2), a person shall not knowingly brandish a firearm in public.

(2) Subsection (1) does not apply to any of the following:

(a) A peace officer lawfully performing his or her duties as a peace officer.

(b) A person lawfully engaged in hunting.

(c) A person lawfully engaged in target practice.

(d) A person lawfully engaged in the sale, purchase, repair, or transfer of that firearm.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.234f Possession of firearm by person less than 18 years of age; exceptions; violation as misdemeanor; penalty.

Sec. 234f. (1) Except as provided in subsection (2), an individual less than 18 years of age shall not possess a firearm in public except under the direct supervision of an individual 18 years of age or older.

(2) Subsection (1) does not apply to an individual less than 18 years of age who possesses a firearm in accordance with part 401 (wildlife conservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws, or part 435 (hunting and fishing licensing) of Act No. 451 of the Public Acts of 1994, being sections 324.43501 to 324.43561 of the Michigan Compiled Laws. However, an individual less than 18 years of age may possess a firearm without a hunting license while at, or going to or from, a recognized target range or trap or skeet shooting ground if, while going to or from the range or ground, the firearm is enclosed and securely fastened in a case or locked in the trunk of a motor vehicle.

(3) An individual who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1996, Act 80, Imd. Eff. Feb. 27, 1996.

750.235 Firearm; injuring, intentionally aimed without malice.

Sec. 235. Injuring by discharge of fire-arm intentionally but without malice pointed at another—Any person who shall maim or injure any other person by the discharge of any fire-arm pointed or aimed intentionally, without malice, at any such person shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.235.

Former law: See section 3 of Act 68 of 1869, being CL 1871, § 7549; How., § 9112; CL 1897, § 11511; CL 1915, § 15234; and CL 1929, § 16778.

750.235a Parent of minor guilty of misdemeanor; conditions; penalty; defense; definitions.

Sec. 235a. (1) The parent of a minor is guilty of a misdemeanor if all of the following apply:

(a) The parent has custody of the minor.

(b) The minor violates this chapter in a weapon free school zone.

(c) The parent knows that the minor would violate this chapter or the parent acts to further the violation.

(2) An individual convicted under subsection (1) may be punished by 1 or more of the following:

(a) A fine of not more than $2,000.00.

(b) Community service for not more than 100 hours.

(c) Probation.

(3) It is a complete defense to a prosecution under this section if the defendant promptly notifies the local law enforcement agency or the school administration that the minor is violating or will violate this chapter in a weapon free school zone.

(4) As used in this section:

(a) “Minor” means an individual less than 18 years of age.

(b) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(c) “School property” means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

(d) “Weapon free school zone” means school property and a vehicle used by a school to transport students to or from school property.

History: Add. 1994, Act 158, Eff. Aug. 15, 1994.

Compiler’s note: Former § 750.235a, which made the reckless use of firearms a misdemeanor, was repealed by Act 45 of 1952, Eff. Sept. 18, 1952.

750.236 Spring gun, trap or device; setting.

Sec. 236. Setting spring guns, etc.—Any person who shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the

immediate presence of some competent person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than 500 dollars, and the killing of any person by the firing of a gun or device so set shall be manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.236.

Former law: See section 1 of Act 97 of 1875; being How., § 9114; CL 1897, § 11515; CL 1915, § 15250; and CL 1929, § 16782.

750.237 Liquor or other drug; possession or use of firearm by person under influence.

Sec. 237. Possession or use of fire-arm by person under influence of liquor or drug—Any person under the influence of intoxicating liquor or any exhilarating or stupefying drug who shall carry, have in possession or under control, or use in any manner or discharge any fire-arm within this state, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.237.

Former law: See sections 1 and 2 of Act 25 of 1929, being CL 1929, §§ 16780 and 16781.

750.237a Individuals engaging in proscribed conduct; violation; penalties; definitions.

Sec. 237a. (1) An individual who engages in conduct proscribed under section 224, 224a, 224b, 224c, 224e, 226, 227, 227a, 227f, 234a, 234b, or 234c, or who engages in conduct proscribed under section 223(2) for a second or subsequent time, in a weapon free school zone is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than the maximum term of imprisonment authorized for the section violated.

(b) Community service for not more than 150 hours.

(c) A fine of not more than 3 times the maximum fine authorized for the section violated.

(2) An individual who engages in conduct proscribed under section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233, 234, 234e, 234f, 235, 236, or 237, or who engages in conduct proscribed under section 223(2) for the first time, in a weapon free school zone is guilty of a misdemeanor punishable by 1 or more of the following:

(a) Imprisonment for not more than the maximum term of imprisonment authorized for the section violated or 93 days, whichever is greater.

(b) Community service for not more than 100 hours.

(c) A fine of not more than $2,000.00 or the maximum fine authorized for the section violated, whichever is greater.

(3) Subsections (1) and (2) do not apply to conduct proscribed under a section enumerated in those subsections to the extent that the proscribed conduct is otherwise exempted or authorized under this chapter.

(4) Except as provided in subsection (5), an individual who possesses a weapon in a weapon free school zone is guilty of a misdemeanor punishable by 1 or more of the following:

(a) Imprisonment for not more than 93 days.

(b) Community service for not more than 100 hours.

(c) A fine of not more than $2,000.00.

(5) Subsection (4) does not apply to any of the following:

(a) An individual employed by or contracted by a school if the possession of that weapon is to provide security services for the school.

(b) A peace officer.

(c) An individual licensed by this state or another state to carry a concealed weapon.

(d) An individual who possesses a weapon provided by a school or a school's instructor on school property for purposes of providing or receiving instruction in the use of that weapon.

(e) An individual who possesses a firearm on school property if that possession is with the permission of the school's principal or an agent of the school designated by the school's principal or the school board.

(f) An individual who is 18 years of age or older who is not a student at the school and who possesses a firearm on school property while transporting a student to or from the school if any of the following apply:

(*i*) The individual is carrying an antique firearm, completely unloaded, in a wrapper or container in the trunk of a vehicle while en route to or from a hunting or target shooting area or function involving the exhibition, demonstration or sale of antique firearms.

(*ii*) The individual is carrying a firearm unloaded in a wrapper or container in the trunk of the person's vehicle, while in possession of a valid Michigan hunting license or proof of valid membership in an organization having shooting range facilities, and while en route to or from a hunting or target shooting area.

(*iii*) The person is carrying a firearm unloaded in a wrapper or container in the trunk of the person's vehicle from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from one place of abode or business to another place of abode or business.

(*iv*) The person is carrying an unloaded firearm in the passenger compartment of a vehicle that does not have a trunk, if the person is otherwise complying with the requirements of subparagraph (*ii*) or (*iii*) and the wrapper or container is not readily accessible to the occupants of the vehicle.

(6) As used in this section:

(a) "Antique firearm" means either of the following:

(*i*) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or a replica of such a firearm, whether actually manufactured before or after the year 1898.

(*ii*) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(c) "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

(d) "Weapon free school zone" means school property and a vehicle used by a school to transport students to or from school property.

History: Add. 1994, Act 158, Eff. Aug. 15, 1994.

750.238 Search warrant.

Sec. 238. Search warrant—When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this chapter is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.238.

750.239 Forfeiture of weapons.

Sec. 239. All pistols, weapons or devices carried, possessed or used contrary to this chapter are hereby declared forfeited to the state, and shall be turned over to the commissioner of the Michigan state police or his designated representative, for such disposition as the commissioner may prescribe.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.239;—Am. 1949, Act 168, Eff. Sept. 23, 1949;—Am. 1964, Act 215, Eff. Aug. 28, 1964.

750.239a Disposition of seized weapon.

Sec. 239a. (1) Before a firearm is turned over for disposal under section 239, the police agency that recovered or confiscated the firearm shall determine if there is a known legal owner of the firearm and whether the firearm has been reported stolen. If the police agency determines a serial number has been eradicated from the firearm, the police agency shall submit the firearm to the department of state police or a forensic laboratory for serial number restoration to determine legal ownership. In making the determination of ownership required under this subsection, the police agency shall review information contained in the law enforcement information network and examine that police agency's stolen property reports. If the police agency determines the firearm is stolen, the police agency shall notify the agency reporting the firearm as stolen and return the firearm to that agency at the conclusion of the criminal case. The agency receiving the firearm shall notify the legal owner and provide for disposition of the firearm in compliance with subsections (3) and (4).

(2) If the owner is not alleged to have been involved in the violation for which forfeiture is required or did not knowingly allow the firearm to be possessed illegally, notification shall be given at the conclusion of the criminal case but not later than 90 days before the firearm is disposed of under section 239. Notification under this subsection may be given by certified mail sent to the owner's last known address, or by personal contact with the owner.

(3) The police agency shall return a firearm to its owner if the owner claims the firearm within the notification period and that police agency determines that the owner was not involved in the violation for which the firearm was seized. Except as otherwise provided in subsection (2), a firearm shall be returned under this subsection within 30 days after the firearm is claimed by the owner unless the owner is prohibited from possessing a firearm under state or federal law.

(4) An individual claiming ownership of a firearm may petition the circuit court for return of a firearm under this section if return of the firearm is denied by the police agency or if the firearm is not returned within 30 days as required under subsection (3). The police agency shall not dispose of a firearm until the expiration of the 30-day period or, if a petition is filed under this subsection, until permitted to do so by the court.

(5) A police agency shall turn confiscated weapons over to the department of state police under section 239 not more than 1 year after final conclusion of the criminal case and expiration of the appeal period. The police agency shall first make a reasonable effort to contact the owner of the firearm to determine whether a demand for the firearm is forthcoming.

(6) A police agency that seizes a firearm for forfeiture under this act shall exercise reasonable care to protect the firearm from loss or damage while the firearm is in its custody.

(7) As used in this section, "police agency" means 1 or more of the following:

(a) The department of state police.

(b) A county sheriff's department.

(c) A police department or public safety department of a local unit of government.

(d) A police department or public safety department of a college or university.

History: Add. 1996, Act 496, Eff. Mar. 31, 1997.

CHAPTER XXXIX

FIREWORKS

750.243a Definitions; prohibited sales and conduct; fireworks for which permit not required.

Sec. 243a. (1) As used in this chapter:

(a) "Fireworks" means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. Fireworks includes class B fireworks and class C fireworks.

(b) "Class B fireworks" means toy torpedoes, railway torpedoes, firecrackers or salutes that do not qualify as class C fireworks, exhibition display pieces, aeroplane flares, illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges but without bursting charges, flash powders in inner units not exceeding 2 ounces each, flash sheets in interior packages, flash powder or spreader cartridges containing not more than 72 grains of flash powder each, and other similar devices.

(c) "Class C fireworks" means toy smoke devices, toy caps containing not more than .25 grains of explosive mixture, toy propellant devices, cigarette loads, trick matches, trick noise makers, smoke candles, smoke pots, smoke grenades, smoke signals, hand signal devices, Very signal cartridges, sparklers, explosive auto alarms, and other similar devices.

(2) Except as provided in subsection (3) and sections 243b, 243c, and 243d, a person, firm, partnership, or corporation shall not offer for sale, expose for sale, sell at retail, keep with intent to sell at retail, possess, give, furnish, transport, use, explode, or cause to explode any of the following:

(a) A blank cartridge, blank cartridge pistol, toy cannon, toy cane, or toy gun in which explosives are used.

(b) An unmanned balloon which requires fire underneath to propel it and is not moored to the ground while aloft.

(c) Firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, bottle rockets, whistling chasers, rockets on sticks, or other fireworks of like construction.

(d) Fireworks containing an explosive or inflammable compound or a tablet or other device commonly used and sold as fireworks containing nitrates, fulminates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus, or a compound containing these or other modern explosives.

(3) A permit is not required for the following:

(a) Flat paper caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(b) Toy pistols, toy cannons, toy canes, toy trick noise makers, and toy guns of a type approved by the director of the department of state police in which paper caps as described in subdivision (a) are used and which are so constructed that the hand cannot come in contact with the cap when in place for the explosion and which are not designed to break apart or be separated so as to form a missile by the explosion.

(c) Sparklers containing not more than .0125 pounds of burning portion per sparkler.

(d) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter, cone fountains, and cylinder fountains.

(e) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(f) Possession, transportation, sale, or use of signal flares of a type approved by the director of the department of state police, blank cartridges or blank cartridge pistols specifically for a show or theater, for the training or exhibiting of dogs, for signal purposes in athletic sports, for use by military organizations, and all items described in subsection (2) used by railroads for emergency signal purposes.

(g) The sale of fireworks, provided they are to be shipped directly out of state pursuant to regulations of the United States department of transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976;—Am. 1978, Act 258, Eff. July 1, 1978;—Am. 1980, Act 422, Eff. Mar. 31, 1981.

CHAPTER XLV

HOMICIDE

750.329 Death; firearm pointed intentionally, but without malice.

Sec. 329. Death from wound, etc., from firearm pointed intentionally, but without malice—Any person who shall wound, maim or injure any other person by the discharge of any firearm, pointed or aimed, intentionally but without malice, at any such person, shall, if death ensue from such wounding, maiming or injury, be deemed guilty of the crime of manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.329.

CHAPTER LII

LARCENY

750.357b Committing larceny by stealing firearm of another person as felony; penalty.

Sec. 357b. A person who commits larceny by stealing the firearm of another person is guilty of a felony, punishable by imprisonment for not more than 5 years or by a fine of not more than $2,500.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

CHAPTER LIX

MILITARY

750.406 Military stores, larceny, embezzlement or destruction.

Sec. 406. Larceny, embezzlement or destruction of military stores—Any person who, during any war, rebellion or insurrection against the United States, or against this state, shall wilfully and maliciously embezzle, steal, injure, destroy or secrete any arms or ammunition, or military stores or equipments of the United States, or of this state, or of any officer, soldier or soldiers in the service of the United States, or of this state, or shall wilfully and maliciously destroy, remove or injure any buildings, machinery or material used or intended to be used in the making, repairing or storing of any arms, ammunition, military stores or equipments for the service of the United States, or of this state, whether such buildings, machinery or materials be public or private property, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.406.

Former law: See section 3 of Act 128 of 1863, being CL 1871, § 7763; How., § 9360; CL 1897, § 11389; CL 1915, § 15107; and CL 1929, § 16640.

CHAPTER LX

MISCELLANEOUS

750.411 Hospitals, pharmacies, physicians; duty to report injuries; violation as misdemeanor; immunity; limitations.

Sec. 411. (1) A person, firm, or corporation conducting a hospital or pharmacy in this state, the person managing or in charge of a hospital or pharmacy, or the person in charge of award or part of a hospital to which 1 or more persons come or are brought suffering from a wound or other injury inflicted by means of a knife, gun, pistol, or other deadly weapon, or by other means of violence, has a duty to report that fact immediately, both by telephone and in writing, to the chief of police or other head of the police force of the village or city in which the hospital or pharmacy is located, or to the county sheriff if the hospital or pharmacy is located outside the incorporated limits of a village or city. The report shall state the name and residence of the person, if known, his or her whereabouts, and the cause, character, and extent of the injuries and may state the identification of the perpetrator, if known.

(2) A physician or surgeon who has under his or her charge or care a person suffering from a wound or injury inflicted in the manner described in subsection (1) has a duty to report that fact in the same manner and to the same officer as required by subsection (1).

(3) A person, firm, or corporation that violates this section is guilty of a misdemeanor.

(4) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a person who makes a report in good faith under subsection (1) or (2) or who cooperates in good faith in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is immune from civil or criminal liability that would otherwise be incurred by making the report or cooperating in the investigation or civil or criminal proceeding. A person who makes a report under subsection (1) or (2) or who cooperates in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is presumed to have acted in good faith. The presumption created by this subsection may be rebutted only by clear and convincing evidence.

(5) The immunity from civil and criminal liability granted under subsection (4) extends only to the actions described in subsection (4) and does not extend to another act or omission that is negligent or that amounts to professional malpractice, or both, and that causes personal injury or death.

(6) The physician-patient privilege created under section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157, a health professional-patient privilege created under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and any other health professional-patient privilege created or recognized by law do not apply to a report made under subsection (1) or (2), are not valid reasons for a failure to comply with subsection (1) or (2), and are not a defense to a misdemeanor charge filed under this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.411;—Am. 2000, Act 339, Eff. Apr. 1, 2001.

CHAPTER LXI

MOTOR VEHICLES

750.421 Motor vehicles; trailer designed for defense or attack.

Sec. 421. Motor vehicle or trailer designed for purpose of defense or attack—Any person who shall construct, reconstruct, devise, manufacture, purchase, sell, possess or operate any motor vehicle or other vehicle capable of being drawn by a motor vehicle, designed for the use or purpose of defense or attack, from or by explosives, projectiles, ammunition, gases, fumes or other missiles, weapons and firearms, without first obtaining a license therefor from the commissioner of the department of public safety, or his duly authorized deputy, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine not more than 2,500 dollars: Provided, That the provisions of this section shall not apply to any person constructing, reconstructing, devising, manufacturing, purchasing, selling, possessing or operating such vehicles by virtue of any contract with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof.

Applications for said license shall be upon forms provided by said commissioner of public safety. The applicant shall possess the same qualifications and said license shall be issued and revoked in the same manner and subject to the same conditions as are prescribed by law for the issuing and revoking of licenses for carrying concealed weapons, insofar as the same are applicable. The said commissioner may prescribe such other rules and regulations as are necessary to carry out the purpose of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.421.

CHAPTER LXX

PUBLIC OFFICES AND OFFICERS

750.479b Taking of firearm or other weapon from peace officer or corrections officer; penalty; commission of other violation; consecutive terms of imprisonment; definitions.

Sec. 479b. (1) An individual who takes a weapon other than a firearm from the lawful possession of a peace officer or a corrections officer is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both, if all of the following circumstances exist at the time the weapon is taken:

(a) The individual knows or has reason to believe the person from whom the weapon is taken is a peace officer or a corrections officer.

(b) The peace officer or corrections officer is performing his or her duties as a peace officer or a corrections officer.

(c) The individual takes the weapon without consent of the peace officer or corrections officer.

(d) The peace officer or corrections officer is authorized by his or her employer to carry the weapon in the line of duty.

(2) An individual who takes a firearm from the lawful possession of a peace officer or a corrections officer is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both, if all of the following circumstances exist at the time the firearm is taken:

(a) The individual knows or has reason to believe the person from whom the firearm is taken is a peace officer or a corrections officer.

(b) The peace officer or corrections officer is performing his or her duties as a peace officer or a corrections officer.

(c) The individual takes the firearm without the consent of the peace officer or corrections officer.

(d) The peace officer or corrections officer is authorized by his or her employer to carry the firearm in the line of duty.

(3) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(4) A term of imprisonment imposed for a violation of this section may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(5) As used in this section:

(a) "Corrections officer" means a prison or jail guard or other employee of a jail or a state or federal correctional facility, who performs duties involving the transportation, care, custody, or supervision of prisoners.

(b) "Peace officer" means 1 or more of the following:

(*i*) A police officer of this state or a political subdivision of this state.

(*ii*) A police officer of any entity of the United States.

(*iii*) The sheriff of a county of this state or the sheriff's deputy.

(*iv*) A public safety officer of a college or university who is authorized by the governing board of that college or university to enforce state law and the rules and ordinances of that college or university.

(*v*) A conservation officer of the department of natural resources.

(*vi*) A conservation officer of the United States department of interior.

History: Add. 1994, Act 33, Eff. June 1, 1994.

CHAPTER LXXV

RAILROADS

750.516 Forcible detention of railroad train.

Sec. 516. Forcible detention of railroad train for purpose of robbery, etc.—Any person who shall wilfully and maliciously, with intimidation or threat of life with firearms, dynamite, or other dangerous devices stop a railroad train, or cause the officers or employes of said railroad company to stop or leave the train, or detach the train 1 part from another, or compel the engineer or fireman to run the train contrary to their general order, or any part thereof in this state, for the purpose of wrecking or robbing said train, or the passengers or employes thereon, or the express or mail cars of such train, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.516.

Former law: See section 2 of Act 171 of 1897, being CL 1897, § 11635; CL 1915, § 15400; and CL 1929, § 17035.

CHAPTER LXXVI

RAPE

750.520b Criminal sexual conduct in the first degree; felony.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related to the victim by blood or affinity to the fourth degree.

(*iii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (f)(*i*) to (*v*).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(*v*) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment in the state prison for life or for any term of years.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984.

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

Constitutionality: The provision in the criminal sexual conduct statute which permits elevation of a criminal sexual conduct offense from a lesser to a higher degree on the basis of proof of personal injury to the victim in the form of mental anguish is not unconstitutionally vague. People v. Petrella, 424 Mich. 221, 380 N.W.2d 11 (1985).

750.520c Criminal sexual conduct in the second degree; felony.

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related by blood or affinity to the fourth degree to the victim.

(*iii*) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in sections 520b(1)(f)(*i*) to (*v*).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f)(*i*) to (*v*).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(*l*) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 15 years.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 2000, Act 227, Eff. Oct. 1, 2000.

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

CHAPTER LXXVII

RIOTS AND UNLAWFUL ASSEMBLIES

750.528a Firearm or explosive or incendiary device; teaching or demonstrating use, application, or construction in furtherance of civil disorder; unlawful assembly; applicability of section; violation as felony.

Sec. 528a. (1) As used in this section:

(a) "Civil disorder" means any public disturbance involving the use of any firearm, explosive, or incendiary device by 3 or more assembled persons which causes an immediate danger to, or which results in damage or injury to, any property or person.

(b) "Explosive or incendiary device" means:

(*i*) Dynamite, gunpowder, or other similarly explosive substance.

(*ii*) Any bomb, grenade, missile, or similar device designed to expand suddenly and release internal energy resulting in an explosion.

(*iii*) Any incendiary bomb or grenade, fire bomb, or similar device designed to ignite, including any device which consists of or includes a breakable container containing a flammable liquid or compound and a wick composed of any material which, if ignited, is capable of igniting the flammable liquid or compound; and which may be carried or thrown by a person.

(c) "Firearm" means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion; any weapon which may be readily converted to expel any projectile by the action of an explosive, or the frame or receiver of such a firearm or weapon, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of spring, gas, or air.

(d) "Law enforcement officer" means any of the following:

(*i*) Every sheriff or sheriff's deputy; village marshal or township constable; officer of the police department of any city, village, or township; any officer of the Michigan state police; or any peace officer who is trained and certified pursuant to Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws.

(*ii*) Any officer or employee of the United States, its possessions, or territories who is authorized to enforce the laws of the United States, its possessions, or its territories.

(*iii*) Any member of the national guard, coast guard, military reserve, or the armed forces of the United States when acting in his or her official capacity.

(2) A person shall not teach or demonstrate to another person the use, application, or construction of any firearm, or any explosive or incendiary device, if that person knows, has reason to know, or intends that what is taught or demonstrated will be used in, or in furtherance of, a civil disorder.

(3) A person shall not assemble with 1 or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, or any explosive or incendiary device, if that person intends to use such a firearm or device in, or in furtherance of, a civil disorder.

(4) This section shall not apply to any act of a law enforcement officer which is performed in the lawful performance of his or her official duties as a law enforcement officer, or any activity of any hunting club, rifle club, rifle range, pistol range, shooting range, or other program or individual instruction intended to teach the safe handling or use of firearms, archery

equipment, or other weapons or techniques employed in connection with lawful sports, self-defense, or other lawful activities.

(5) A person who violates this section is guilty of a felony.

History: Add. 1986, Act 113, Eff. Mar. 31, 1987.

CHAPTER LXXVIII

ROBBERY

750.529 Armed robbery; aggravated assault.

Sec. 529. Any person who shall assault another, and shall feloniously rob, steal and take from his person, or in his presence, any money or other property, which may be the subject of larceny, such robber being armed with a dangerous weapon, or any article used or fashioned in a manner to lead the person so assaulted to reasonably believe it to be a dangerous weapon, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years. If an aggravated assault or serious injury is inflicted by any person while committing an armed robbery as defined in this section, the sentence shall be not less than 2 years' imprisonment in the state prison.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.529;—Am. 1959, Act 71, Eff. Mar. 19, 1960.

Constitutionality: A defendant's convictions of both armed robbery and the lesser included offenses of larceny of property with a value over $100 and of larceny in a building cannot be allowed to stand as a violation of the defendant's protection against double jeopardy. People v. Jankowski, 408 Mich. 79, 289 N.W.2d 674 (1980).

In People v. Wilder, 411 Mich. 328, 308 N.W.2d 112 (1981), the Michigan supreme court held that conviction and sentence for both first-degree felony murder and the underlying felony of armed robbery violates the state constitutional prohibition against double jeopardy.

Former law: See section 15 of Ch. 153 of R.S. 1846, being CL 1857, § 5725; CL 1871, § 7524; How., § 9089; CL 1897, § 11484; CL 1915, § 15206; CL 1929, § 16722; and Act 374 of 1927.

CHAPTER LXXXI

STOLEN, EMBEZZLED OR CONVERTED PROPERTY

750.535b Transporting or shipping stolen firearm or stolen ammunition as felony; receiving, concealing, storing, bartering, selling, disposing of, pledging, or accepting as security for a loan a stolen firearm as felony; penalties.

Sec. 535b. (1) A person who transports or ships a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than $5,000.00, or both.

(2) A person who receives, conceals, stores, barters, sells, disposes of, pledges, or accepts as security for a loan a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than $5,000.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.536a Rendering goods or property unidentifiable; possession or sale of goods or property with identifying number obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised.

Sec. 536a. (1) A person who obscures, defaces, alters, obliterates, removes, destroys, or otherwise conceals or disguises any registration, serial, or other identifying number embossed, engraved, carved, stamped, welded, or otherwise placed or situated in or upon goods or property held for sale in the ordinary course of business with the intent to render the goods or property unidentifiable shall be guilty of a misdemeanor.

(2) A person who is a dealer in or collector of any merchandise or personal property or the agent, employee, or representative of a dealer or collector and who possesses goods or property with the intent to sell the goods or property in the ordinary course of business knowing the registration, serial, or other identifying number has been obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised shall be guilty of a misdemeanor.

(3) A person who is a dealer or collector of any merchandise or personal property or the agent, employee, or representative of a dealer or collector and who sells goods or property in the ordinary course of business knowing that the registration, serial, or other identifying number has been obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised shall be guilty of a misdemeanor.

History: Add. 1980, Act 44, Eff. July 1, 1980;—Am. 1984, Act 407, Eff. Apr. 1, 1985.

DEATH OR INJURIES FROM FIREARMS
Act 10 of 1952

AN ACT to define the duties of any person who discharges a firearm and thereby injures any person; and to prescribe penalties for violations of the provisions of this act.

History: 1952, Act 10, Eff. Sept. 18, 1952.

The People of the State of Michigan enact:

752.841 Firearms; definition.

Sec. 1. For the purposes of this act the word "firearm" shall mean any weapon or device from which is propelled any missile, projectile, bullet, shot, pellet or other mass by means of explosives, compressed air or gas, or by means of springs, levers or other mechanical device.

History: 1952, Act 10, Eff. Sept. 18, 1952.

752.842 Firearms; discharging; injuries.

Sec. 2. Any person who discharges a firearm and thereby injures or fatally wounds another person, or has reason to believe he has injured or fatally wounded another person, shall immediately stop at the scene and shall give his name and address to the injured person, or any member of his party, and shall render to the person so injured immediate assistance and reasonable assistance in securing medical and hospital care and transportation for such injured person.

History: 1952, Act 10, Eff. Sept. 18, 1952.

752.843 Firearms; report of injury or death.

Sec. 3. Every person who shall have caused or been involved in an accident in which a human being was killed or injured by means of a firearm, shall, in addition to complying with the provisions of section 2 of this act, immediately thereafter report such injury or death to the nearest office of the state police, or to the sheriff of the county wherein the death or injury occurred, unless such person be physically incapable of making the required report, in which event it shall be the duty of such person or persons to designate an agent to file the report. It shall be the duty of the sheriff, upon receipt of the report herein required, to transmit the same forthwith to the nearest office of the state police.

History: 1952, Act 10, Eff. Sept. 18, 1952.

752.844 Reports; availability for use.

Sec. 4. Reports required to be filed under the provisions of this act shall not be available for use in any way in any court action, civil or criminal, and shall not be open to general public inspection, but shall be for the purpose of furnishing statistical information as to the number and cause of such accidents. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

History: 1952, Act 10, Eff. Sept. 18, 1952.

752.845 Firearms; injury to person, penalty, suspension of hunting privileges.

Sec. 5. Any person violating any of the provisions of this act shall, upon conviction thereof, be fined not more than $100.00 and costs of prosecution, or imprisonment in the county jail for not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. In addition to any fine or imprisonment, the court may suspend the hunting privileges of such person for a period of not to exceed 3 years from the date of conviction.

History: 1952, Act 10, Eff. Sept. 18, 1952;—Am. 1958, Act 12, Eff. Sept. 13, 1958.

CARELESS, RECKLESS, OR NEGLIGENT USE OF FIREARMS
Act 45 of 1952

AN ACT to prohibit the careless, reckless or negligent use of firearms and to provide penalties for the violation of this act; and to repeal certain acts and parts of acts.

History: 1952, Act 45, Eff. Sept. 18, 1952.

The People of the State of Michigan enact:

752.861 Careless, reckless or negligent use of firearms; penalty.

Sec. 1. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his immediate control, to be discharged so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than $2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

History: 1952, Act 45, Eff. Sept. 18, 1952.

752.862 Careless, reckless or negligent use of firearms; injury of property; penalty.

Sec. 2. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than $100.00, if the injury to such property shall not exceed the sum of $50.00, but in the event that such injury shall exceed the sum of $50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding $500.00.

History: 1952, Act 45, Eff. Sept. 18, 1952.

752.863 Section repealed.

Sec. 3. Section 235a of Act No. 328 of the Public Acts of 1931, being section 750.235a of the Compiled Laws of 1948, is hereby repealed.

History: 1952, Act 45, Eff. Sept. 18, 1952.

752.863a Reckless, wanton use or negligent discharge of firearm; penalty.

Sec. 3**[a]**. Any person who shall recklessly or heedlessly or wilfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.

History: Add. 1955, Act 14, Eff. Oct. 14, 1955.

Compiler's note: Section 3, as added by Act 14 of 1955, appears as Sec. 3[a] to distinguish it from the preceding section. The compilation number formerly assigned to this section was § 752.a863.

752.864 Firearms; injury to person or property, suspension of hunting privileges.

Sec. 4. In addition to the penalties provided in other sections of this act, the court may suspend the hunting privileges of any person convicted of violating any provision of this act for a period of not to exceed 3 years from the date of conviction.

History: Add. 1958, Act 15, Eff. Sept. 13, 1958.

SPRING, GAS, OR AIR OPERATED HANDGUNS
Act 186 of 1959

AN ACT to regulate the use of certain spring, gas or air operated handguns and to provide a penalty for violation of this act.

History: 1959, Act 186, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

752.891 Use or possession of BB handgun by minor.

Sec. 1. No person under 18 years of age shall use or possess any handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air, outside the curtilage of his domicile unless he is accompanied by a person over 18 years of age.

History: 1959, Act 186, Eff. Mar. 19, 1960;—Am. 1972, Act 37, Imd. Eff. Feb. 19, 1972.

752.892 Penalty.

Sec. 2. Any person who violates the provisions of this act is guilty of a misdemeanor.

History: 1959, Act 186, Eff. Mar. 19, 1960.

THE CODE OF CRIMINAL PROCEDURE (EXCERPTS)
Act 175 of 1927

AN ACT to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 445, Imd. Eff. Jan. 10, 1995.

The People of the State of Michigan enact:

CHAPTER IV

ARREST

764.1f Juvenile; filing complaint and warrant with magistrate; "specified juvenile violation" defined.

Sec. 1f. (1) If the prosecuting attorney has reason to believe that a juvenile 14 years of age or older but less than 17 years of age has committed a specified juvenile violation, the prosecuting attorney may authorize the filing of a complaint and warrant on the charge with a magistrate concerning the juvenile.

(2) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(d) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: Add. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 195, Eff. Oct. 1, 1994;—Am. 1996, Act 255, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

764.15b Arrest without warrant for violation of personal protection order; answering to charge of contempt; hearing; bond; show cause order; jurisdiction to conduct contempt proceedings; prosecution of criminal contempt; prohibited actions by court.

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has or receives positive information that another peace officer has reasonable cause to believe all of the following apply:

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(b) The individual named in the personal protection order is violating or has violated the order. An individual is violating or has violated the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing:

(*i*) Assaulting, attacking, beating, molesting, or wounding a named individual.

(*ii*) Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(*iii*) Entering onto premises.

(*iv*) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(*v*) Threatening to kill or physically injure a named individual.

(*vi*) Purchasing or possessing a firearm.

(*vii*) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.

(*viii*) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

(*ix*) Any other act or conduct specified by the court in the personal protection order.

(c) The personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and either of the following:

(*i*) If the individual restrained or enjoined is 17 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than $500.00.

(*ii*) If the individual restrained or enjoined is less than 17 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(2) An individual arrested under this section shall be brought before the family division of the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violating the personal protection order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the personal protection order. The hearing shall be held within 72 hours after arrest, unless extended by the court on the motion of the arrested individual or the prosecuting attorney.

(b) Set a reasonable bond pending a hearing of the alleged violation of the personal protection order.

(c) Notify the prosecuting attorney of the criminal contempt proceeding.

(d) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits in which the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall set bond and order the defendant to appear before the family division of circuit court in the county for a hearing on the charge. If the district court will not be open within 24 hours after arrest, a judge or district court magistrate shall set bond and order the defendant to appear before the circuit court in the county for a hearing on the charge.

(4) If a criminal contempt proceeding for violation of a personal protection order is not initiated by an arrest under this section but is initiated as a result of a show cause order or other process or proceedings, the court shall do all of the following:

(a) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the contempt charge.

(b) Notify the prosecuting attorney of the criminal contempt proceeding.

(5) The family division of circuit court in each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state. The court of arraignment shall notify the circuit court that issued the personal protection order that the issuing court may request that the defendant be returned to that court for violating the personal protection order. If the court that issued the personal protection order requests that the defendant be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the defendant to that county.

(6) The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order issued pursuant to section 2(h) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the family division of circuit court in any county of this state. The family division of circuit court that conducts the preliminary inquiry shall notify the family division of circuit court that issued the personal protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order. If the family division of circuit court that issued the personal protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county.

(7) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection (2) or initiated by a show cause order under subsection (4), unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding or the prosecuting attorney determines that the personal protection order was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown.

(8) A court shall not rescind a personal protection order, dismiss a contempt proceeding based on a personal protection order, or impose any other sanction for a failure to comply with a time limit prescribed in this section.

History: Add. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1983, Act 230, Imd. Eff. Nov. 28, 1983;—Am. 1992, Act 251, Eff. Jan. 1, 1993;—Am. 1994, Act 59, Eff. July 1, 1994;—Am. 1994, Act 62, Eff. July 1, 1994;—Am. 1994, Act 418, Eff. Apr. 1, 1995;—Am. 1996, Act 15, Eff. June 1, 1996;—Am. 1998, Act 475, Eff. Mar. 1, 1999;—Am. 1999, Act 269, Eff. July 1, 2000.

764.15c Investigation or intervention in domestic dispute; providing victim with notice of rights; report; retention and filing of report; "domestic violence incident" defined.

Sec. 15c. (1) After investigating or intervening in a domestic violence incident, a peace officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

(a) The name and telephone number of the responding police agency.

(b) The name and badge number of the responding peace officer.

(c) Substantially the following statement:

"You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided.

The domestic violence shelter program and other resources in your area are (include local information).

Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources.

Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include restraining or enjoining the abuser from doing the following:

(a) Entering onto premises.

(b) Assaulting, attacking, beating, molesting, or wounding you.

(c) Threatening to kill or physically injure you or another person.

(d) Removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(e) Engaging in stalking behavior.

(f) Purchasing or possessing a firearm.

(g) Interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.

(h) Interfering with you at your place of employment or education or engaging in conduct that impairs your employment relationship or your employment or educational environment.

(i) Engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.

(j) Having access to information in records concerning any minor child you have with the abuser that would inform the abuser about your address or telephone number, the child's address or telephone number, or your employment address.

Your legal rights also include the right to go to court and file a motion for an order to show cause and a hearing if the abuser is violating or has violated a personal protection order and has not been arrested.".

(2) The peace officer shall prepare a domestic violence report after investigating or intervening in a domestic violence incident. The report shall contain, but is not limited to containing, all of the following:

(a) The address, date, and time of the incident being investigated.

(b) The victim's name, address, home and work telephone numbers, race, sex, and date of birth.

(c) The suspect's name, address, home and work telephone numbers, race, sex, date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists.

(d) The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the victim or suspect, and the relationship of the witness to the suspect or victim.

(e) The following information about the incident being investigated:

(*i*) The name of the person who called the law enforcement agency.

(*ii*) The relationship of the victim and suspect.

(*iii*) Whether alcohol or controlled substance use was involved in the incident, and by whom it was used.

(*iv*) A brief narrative describing the incident and the circumstances that led to it.

(*v*) Whether and how many times the suspect physically assaulted the victim and a description of any weapon or object used.

(*vi*) A description of all injuries sustained by the victim and an explanation of how the injuries were sustained.

(*vii*) If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.

(*viii*) A description of any property damage reported by the victim or evident at the scene.

(f) A description of any previous domestic violence incidents between the victim and the suspect.

(g) The date and time of the report and the name, badge number, and signature of the peace officer completing the report.

(3) The law enforcement agency shall retain the completed domestic violence report in its files. The law enforcement agency shall also file a copy of the completed domestic violence report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency.

(4) As used in this section, "domestic violence incident" means an incident reported to a law enforcement agency involving allegations of 1 or both of the following:

(a) A violation of a personal protection order issued under section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(b) A crime committed by an individual against his or her spouse or former spouse, an individual with whom he or she has had a child in common, or an individual who resides or has resided in the same household.

History: Add. 1985, Act 222, Eff. Mar. 31, 1986;—Am. 1994, Act 60, Eff. July 1, 1994;—Am. 1994, Act 63, Eff. July 1, 1994;—Am. 1994, Act 418, Eff. Apr. 1, 1995;—Am. 1996, Act 15, Eff. June 1, 1996;—Am. 1998, Act 475, Eff. Mar. 1, 1999;—Am. 1999, Act 269, Eff. July 1, 2000.

764.25 Arrest; weapons and articles on prisoner; seizure, disposal.

Sec. 25. Any person making an arrest shall take from the person arrested, all offensive weapons or incriminating articles which he may have about his person and must deliver them to the sheriff of the county, chief of police of the city or to the magistrate before whom he is taken.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17159;—CL 1948, 764.25.

764.25a Strip search.

Sec. 25a. (1) As used in this section, "strip search" means a search which requires a person to remove his or her clothing to expose underclothing, breasts, buttocks, or genitalia.

(2) A person arrested or detained for a misdemeanor offense, or an offense which is punishable only by a civil fine shall not be strip searched unless both of the following occur:

(a) The person arrested is being lodged into a detention facility by order of a court or there is reasonable cause to believe that the person is concealing a weapon, a controlled substance, or evidence of a crime.

(b) The strip search is conducted by a person who has obtained prior written authorization from the chief law enforcement officer of the law enforcement agency conducting the strip search, or from that officer's designee; or if the strip search is conducted upon a minor in a juvenile detention facility which is not operated by a law enforcement agency, the strip search

is conducted by a person who has obtained prior written authorization from the chief administrative officer of that facility, or from that officer's designee.

(3) A strip search conducted under this section shall be performed by a person of the same sex as the person being searched and shall be performed in a place that prevents the search from being observed by a person not conducting or necessary to assist with the search. A law enforcement officer who assists in the strip search shall be of the same sex as the person being searched.

(4) If a strip search is conducted under this section, the arresting officer shall prepare a report of the strip search. The report shall include the following information:

(a) The name and sex of the person subjected to the strip search.

(b) The name and sex of the person conducting the strip search.

(c) The name and sex of a person who assists in conducting the strip search.

(d) The time, date, and place of the strip search.

(e) The justification for conducting a strip search.

(f) A list of all items recovered from the person who was strip searched.

(g) A copy of the written authorization required under subsection (2)(b).

(5) A copy of the report required by subsection (4) shall be given without cost to the person who has been searched, subject to deletions permitted by section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(6) A law enforcement officer, any employee of the law enforcement agency, or a chief administrative officer or employee of a juvenile detention facility who conducts or authorizes a strip search in violation of this section is guilty of a misdemeanor.

(7) This section shall not apply to the strip search of a person lodged in a detention facility by an order of a court or in a state correctional facility housing prisoners under the jurisdiction of the department of corrections, including a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

History: Add. 1979, Act 185, Eff. Mar. 27, 1980;—Am. 1983, Act 92, Eff. Mar. 29, 1984;—Am. 1999, Act 65, Imd. Eff. June 24, 1999.

CHAPTER V

BAIL

765.6b Release subject to protective conditions; contents of order; purchase or possession of firearm; entering or removing order from L.E.I.N.; authority to impose other conditions not limited.

Sec. 6b. (1) A judge or district court magistrate may release under this section a defendant subject to conditions reasonably necessary for the protection of 1 or more named persons. If a judge or district court magistrate releases under this section a defendant subject to protective conditions, the judge or district court magistrate shall make a finding of the need for protective conditions and inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of the specific conditions imposed and that if the defendant violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bail forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if the defendant is found in contempt of court.

(2) An order or amended order issued under subsection (1) shall contain all of the following:

(a) A statement of the defendant's full name.

(b) A statement of the defendant's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or district court magistrate considers appropriate.

(c) A statement of the date the conditions become effective.

(d) A statement of the date on which the order will expire.

(e) A statement of the conditions imposed.

(3) An order or amended order issued under this subsection and subsection (1) may impose a condition that the defendant not purchase or possess a firearm.

(4) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (1) or subsections (1) and (3) into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(5) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by Act No. 163 of the Public Acts of 1974, or shall remove the order

or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (4).

(6) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

History: Add. 1993, Act 53, Eff. July 1, 1993;—Am. 1994, Act 335, Eff. Apr. 1, 1996.

CHAPTER VI

EXAMINATION OF OFFENDERS

766.14 Proceedings where offense charged not felony; transfer of case to family division of circuit court; waiver of jurisdiction; "specified juvenile violation" defined.

Sec. 14. (1) If the court determines at the conclusion of the preliminary examination of a person charged with a felony that the offense charged is not a felony or that an included offense that is not a felony has been committed, the accused shall not be dismissed but the magistrate shall proceed in the same manner as if the accused had initially been charged with an offense that is not a felony.

(2) If at the conclusion of the preliminary examination of a juvenile the magistrate finds that a specified juvenile violation did not occur or that there is not probable cause to believe that the juvenile committed the violation, but that there is probable cause to believe that some other offense occurred and that the juvenile committed that other offense, the magistrate shall transfer the case to the family division of circuit court of the county where the offense is alleged to have been committed.

(3) A transfer under subsection (2) does not prevent the family division of circuit court from waiving jurisdiction over the juvenile under section 4 of chapter XIIA of 1939 PA 288, MCL 712A.4.

(4) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(*i*) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(*ii*) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

(d) A violation of section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17206;—CL 1948, 766.14;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 195, Eff. Oct. 1, 1994;—Am. 1996, Act 255, Eff. Jan. 1, 1997;—Am. 1996, Act 418, Eff. Jan. 1, 1998;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

CHAPTER IX

JUDGMENT AND SENTENCE

769.1 Authority and power of court; crimes for which juvenile to be sentenced as adult; fingerprints as condition to sentencing; hearing at juvenile's sentencing; determination; criteria; waiver; violation of § 333.7403; statement on record; transcript; reimbursement provision in order of commitment; disposition of collections; order to intercept tax refunds and initiate offset proceedings; notice; order directed to person responsible for juvenile's support; hearing; copy of order; retention of jurisdiction over juvenile; annual review; examination of juvenile's annual report; forwarding report.

Sec. 1. (1) A judge of a court having jurisdiction may pronounce judgment against and pass sentence upon a person convicted of an offense in that court. The sentence shall not exceed the sentence prescribed by law. The court shall sentence a juvenile convicted of any of the following crimes in the same manner as an adult:

(a) Arson of a dwelling in violation of section 72 of the Michigan penal code, 1931 PA 328, MCL 750.72.

(b) Assault with intent to commit murder in violation of section 83 of the Michigan penal code, 1931 PA 328, MCL 750.83.

(c) Assault with intent to maim in violation of section 86 of the Michigan penal code, 1931 PA 328, MCL 750.86.

(d) Attempted murder in violation of section 91 of the Michigan penal code, 1931 PA 328, MCL 750.91.

(e) Conspiracy to commit murder in violation of section 157a of the Michigan penal code, 1931 PA 328, MCL 750.157a.

(f) Solicitation to commit murder in violation of section 157b of the Michigan penal code, 1931 PA 328, MCL 750.157b.

(g) First degree murder in violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316.

(h) Second degree murder in violation of section 317 of the Michigan penal code, 1931 PA 328, MCL 750.317.

(i) Kidnapping in violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349.

(j) First degree criminal sexual conduct in violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(k) Armed robbery in violation of section 529 of the Michigan penal code, 1931 PA 328, MCL 750.529.

(*l*) Carjacking in violation of section 529a of the Michigan penal code, 1931 PA 328, MCL 750.529a.

(2) A person convicted of a felony or of a misdemeanor punishable by imprisonment for more than 92 days shall not be sentenced until the court has examined the court file and has determined that the person's fingerprints have been taken.

(3) Unless a juvenile is required to be sentenced in the same manner as an adult under subsection (1), a judge of a court having jurisdiction over a juvenile shall conduct a hearing at the juvenile's sentencing to determine if the best interests of the public would be served by placing the juvenile on probation and committing the juvenile to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, or by imposing any other sentence provided by law for an adult offender. Except as provided in subsection (5), the court shall sentence the juvenile in the same manner as an adult unless the court determines by a preponderance of the evidence that the interests of the public would be best served by placing the juvenile on probation and committing the juvenile to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309. The rules of evidence do not apply to a hearing under this subsection. In making the determination required under this subsection, the judge shall consider all of the following, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(4) With the consent of the prosecutor and the defendant, the court may waive the hearing required under subsection (3). If the court waives the hearing required under subsection (3), the court may place the juvenile on probation and commit the juvenile to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, but shall not impose any other sentence provided by law for an adult offender.

(5) If a juvenile is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7403, the court shall determine whether the best interests of the public would be served by imposing the sentence provided by law for an adult offender, by placing the individual on probation and committing the individual to an institution or agency under subsection (3), or by imposing a sentence of imprisonment for any term of years but not less than 25 years. If the court determines by clear and convincing evidence that the best interests of the public would be served by imposing a sentence of imprisonment for any term of years but not less than 25 years, the court may impose that sentence. In making its determination, the court shall use the criteria specified in subsection (3).

(6) The court shall state on the record the court's findings of fact and conclusions of law for the probation and commitment decision or sentencing decision made under subsection (3). If a juvenile is committed under subsection (3) to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, a transcript of the court's findings shall be sent to the family independence agency or county juvenile agency, as applicable.

(7) If a juvenile is committed under subsection (3) or (4) to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, the written order of commitment shall contain a provision for the reimbursement to the court by the juvenile or those responsible for the juvenile's support, or both, for the cost of care or service. The amount of reimbursement ordered shall be reasonable, taking into account both the income and resources of the juvenile and those responsible for the juvenile's support. The amount may be based upon the guidelines and model schedule prepared under section 18(6) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18. The reimbursement provision applies during the entire period the juvenile remains in care outside the juvenile's own home and under court supervision. The court shall provide for the collection of all amounts ordered to be reimbursed, and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under court supervision. Twenty-five percent of all amounts collected pursuant to an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under county, state, or court supervision. The court may also collect benefits paid by the government of the United States for the cost of care of the juvenile. Money collected for juveniles placed with or committed to the family independence agency or a county juvenile agency shall be accounted for and reported on an individual basis. In cases of delinquent accounts, the court may also enter an order to intercept state tax refunds or the federal income tax refund of a child, parent, guardian, or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service. The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice shall include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount.

(8) If the court appoints an attorney to represent a juvenile, an order entered under this section may require the juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees.

(9) An order directed to a person responsible for the juvenile's support under this section is not binding on the person unless an opportunity for a hearing has been given and until a copy of the order is served on the person, personally or by first-class mail to the person's last known address.

(10) If a juvenile is placed on probation and committed under subsection (3) or (4) to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, the court shall retain jurisdiction over the juvenile while the juvenile is on probation and committed to that institution or agency.

(11) If the court has retained jurisdiction over a juvenile under subsection (10), the court shall conduct an annual review of the services being provided to the juvenile, the juvenile's placement, and the juvenile's progress in that placement. In conducting this review, the court shall examine the juvenile's annual report prepared under section 3 of the juvenile facilities act, 1988 PA 73, MCL 803.223. The court may order changes in the juvenile's placement or treatment plan including, but not limited to, committing the juvenile to the jurisdiction of the department of corrections, based on the review.

(12) If an individual who is under the court's jurisdiction under section 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.4, is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7403, the court shall determine whether the best interests of the public would be served by imposing the sentence provided by law for an adult offender or by imposing a sentence of imprisonment for any term of years but not less than 25 years. If the court determines by clear and convincing evidence that the best interests of the public would be served by imposing a sentence of imprisonment for any term of years but not less than 25 years, the court may impose that sentence. In making its determination, the court shall use the criteria specified in subsection (3) to the extent they apply.

(13) If the defendant is sentenced for an offense other than a listed offense as defined in section 2(d)(*i*) to (*ix*) and (*xi*) to (*xiii*) of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall determine if the offense is a violation of a law of this state or a local ordinance of a municipality of this state that by its nature constitutes a sexual offense against

an individual who is less than 18 years of age. If so, the conviction is for a listed offense as defined in section 2(d)(*x*) of the sex offenders registration act, 1994 PA 295, MCL 28.722, and the court shall include the basis for that determination on the record and include the determination in the judgment of sentence.

(14) When sentencing a person convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance or a felony, the court shall examine the presentence investigation report and determine if the person being sentenced is licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. The court shall also examine the court file and determine if a report of the conviction upon which the person is being sentenced has been forwarded to the department of consumer and industry services as provided in section 16a. If the report has not been forwarded to the department of consumer and industry services, the court shall order the clerk of the court to immediately prepare and forward the report as provided in section 16a.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17329;—CL 1948, 769.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1986, Act 232, Eff. June 1, 1987;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1989, Act 113, Imd. Eff. June 23, 1989;—Am. 1993, Act 85, Eff. Apr. 1, 1994;—Am. 1996, Act 247, Eff. Jan. 1, 1997;—Am. 1996, Act 248, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 1999, Act 87, Eff. Sept. 1, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 181 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former law: See section 3 of Act 162 of 1850, being CL 1857, § 6113; CL 1871, § 7997; How., § 9613; CL 1897, § 11983; CL 1915, § 15856; and Act 166 of 1851.

CHAPTER XVI

MISCELLANEOUS PROVISIONS

776.20 Firearms violations; burden of establishing exception.

Sec. 20. In any prosecution for the violation of any acts of the state relative to use, licensing and possession of pistols or firearms, the burden of establishing any exception, excuse, proviso or exemption contained in any such act shall be upon the defendant but this does not shift the burden of proof for the violation.

History: Add. 1968, Act 299, Eff. Nov. 15, 1968.

CHAPTER XVII

PART 2

777.11 Chapters 1 to 199 of Michigan Compiled Laws; felonies to which chapter applicable. (EXCERPT)

Sec. 11. This chapter applies to the following felonies enumerated in chapters 1 to 199 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.422	Pub saf	F	Pistols—license application forgery	4
28.422a(4)	Pub Saf	F	False statement on pistol sales record	4
28.425b(3)	Pub Saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub Saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(3)(c)	Pub Saf	F	Carrying concealed pistol in prohibited place—third or subsequent offense	4
28.435	Pub Saf	G	Firearm sale without trigger lock, gun case, or storage container—third or subsequent offense	2

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 90, Eff. Sept. 1, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 492, Eff. July 1, 2001.

777.13 Chapters 300 to 399 of Michigan Compiled Laws; felonies to which chapter applicable. (EXCERPT)

Sec. 13. This chapter applies to the following felonies enumerated in chapters 300 to 399 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 61, Eff. Sept. 1, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 304, Eff. Jan. 1, 2001;—Am. 2000, Act 315, Eff. Jan. 1, 2001;—Am. 2000, Act 412, Eff. Mar. 28, 2001.

777.16d §§ 750.81 to 750.91; felonies to which chapter applicable. (EXCERPT)

Sec. 16d. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.82(1)	Person	F	Felonious assault	4
750.82(2)	Person	F	Felonious assault—weapon-free school zone	4
750.89	Person	A	Assault with intent to commit armed robbery	Life

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 192, Eff. Mar. 10, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2001, Act 2, Eff. June 1, 2001.

777.16m §§ 750.223 to 750.236; felonies to which chapter applicable.

Sec. 16m. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.223(2)	Pub saf	F	Sale of firearm to minor — subsequent offense	4
750.223(3)	Pub ord	D	Sale of firearm to person prohibited from possessing	10
750.224	Pub saf	E	Manufacture or sale of silencer, bomb, blackjack, automatic weapon, gas spray, etc.	5
750.224a	Pub saf	F	Possession or sale of electrical current weapons	4
750.224b	Pub saf	E	Possession of short barreled shotgun or rifle	5
750.224c	Pub saf	F	Armor piercing ammunition	4
750.224d(2)	Person	G	Using self-defense spray device	2
750.224e	Pub saf	F	Manufacture/sale/possession of devices to convert semiautomatic weapons	4
750.224f	Pub saf	E	Possession or sale of firearm by felon	5
750.226	Pub saf	E	Carrying firearm or dangerous weapon with unlawful intent	5
750.227	Pub saf	E	Carrying a concealed weapon	5
750.227a	Pub saf	F	Unlawful possession of pistol	4
750.227c	Pub saf	G	Possessing a loaded firearm in or upon a vehicle	2
750.227f	Pub saf	F	Wearing body armor during commission of violent crime	4
750.227g(1)	Pub saf	F	Felon purchasing, owning, possessing, or using body armor	4
750.230	Pub saf	G	Altering ID mark on firearm	2
750.232a(3)	Pub saf	G	False statement in a pistol application	4
750.234a	Pub saf	F	Discharging firearm from vehicle	4
750.234b	Pub saf	F	Discharging firearm in or at a building	4
750.234c	Pub saf	F	Discharging firearm at emergency/police vehicle	4
750.236	Person	C	Setting spring gun — death resulting	15

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 225, Eff. Oct. 1, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.16p §§ 750.317 to 750.329; felonies to which chapter applicable. (EXCERPT)

Sec. 16p. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.329	Person	C	Homicide — weapon aimed with intent but not malice	15

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.16r §§ 750.356 to 750.374; felonies to which chapter applicable. (EXCERPT)

Sec. 16r. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.357b	Property	E	Larceny — stealing firearms of another	5

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.16x §§ 750.478a(2) to 750.517; felonies to which chapter applicable. (EXCERPT)

Sec. 16x. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.479b(2)	Person	D	Disarming peace officer—firearm	10
750.516	Person	C	Stopping train to rob	Life

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 473, Eff. Mar. 28, 2001.

777.16y §§ 750.520b to 750.532; felonies to which chapter applicable. (EXCERPT)

Sec. 16y. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.520b	Person	A	First degree criminal sexual conduct	Life
750.520c	Person	C	Second degree criminal sexual conduct	15
750.528a	Pub saf	F	Civil disorders — firearms/explosives	4
750.529	Person	A	Armed robbery	Life

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.16z §§ 750.535 to 750.552b; felonies to which chapter applicable. (EXCERPT)

Sec. 16z. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.535b	Pub saf	E	Stolen firearms or ammunition	10

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 186, Eff. Apr. 1, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.17 §§ 752.191 to 801.263; felonies to which chapter applicable. (EXCERPT)

Sec. 17. (1) This chapter applies to the following felonies enumerated in chapters 751 to 830 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.861	Person	G	Careless discharge of firearm causing injury or death	2
800.283(1)	Pub saf	E	Furnishing weapon to prisoner in prison	5
800.283(2)	Pub saf	E	Prisons — knowledge of a weapon in a correctional facility	5
800.283(3)	Pub saf	E	Bringing weapon into prison	5
800.283(4)	Pub saf	E	Prisoner possessing weapon	5
801.262(1)(a)	Pub saf	E	Bringing weapon into jail	5
801.262(1)(b)	Pub saf	E	Furnishing weapon to prisoner in jail	5
801.262(2)	Pub saf	E	Prisoner in jail possessing weapon	5

(2) For a violation of section 797(3) of 1979 PA 53, MCL 752.797, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 67, Eff. Aug. 1, 1999;—Am. 2000, Act 178, Eff. Sept. 18, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 300, Eff. Jan. 1, 2001.

777.18 Additional felonies to which chapter applicable. (EXCERPT)

Sec. 18. This chapter applies to the following felonies:

M.C.L.	Category	Description	Stat Max
750.237a	Pub saf	Felony committed in a weapon-free school zone	Variable

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 304, Eff. Jan. 1, 2001.

PART 4

OFFENSE VARIABLES

777.31 Aggravated use of weapon.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon . . . . . 25 points

(b) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon . . . . . 15 points

(c) The victim was touched by any other type of weapon . . . . . 10 points

(d) A weapon was displayed or implied . . . . . 5 points

(e) No aggravated use of a weapon occurred. . . . . 0 points

(2) All of the following apply to scoring offense variable 1:

(a) Count each person who was placed in danger of injury or loss of life as a victim.

(b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.

(c) Score 5 points if an offender used an object to suggest the presence of a weapon.

(d) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999.

777.32 Lethal potential of weapon possessed.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon possessed. Score offense variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender possessed an incendiary device, an explosive device, or a fully automatic weapon . . . . . 15 points

(b The offender possessed a short-barreled rifle or a short-barreled shotgun . . . . . 10 points

(c) The offender possessed a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon. . . . . 5 points

(d) The offender possessed any other potentially lethal weapon. . . . . 1 point

(e) The offender possessed no weapon . . . . . 0 points

(2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.

(3) As used in this section:

(a) "Fully automatic weapon" means a firearm employing gas pressure or force of recoil or other means to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(b) "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.

(c) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

PART 5

PRIOR RECORD VARIABLES

777.55 Prior misdemeanor convictions or prior misdemeanor juvenile adjudications.

Sec. 55. (1) Prior record variable 5 is prior misdemeanor convictions or prior misdemeanor juvenile adjudications. Score prior record variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 7 or more prior misdemeanor convictions or prior misdemeanor juvenile adjudications . . . . 20 points

(b) The offender has 5 or 6 prior misdemeanor convictions or prior misdemeanor juvenile adjudications . . . . . 15 points

(c) The offender has 3 or 4 prior misdemeanor convictions or prior misdemeanor juvenile adjudications . . . . . 10 points

(d) The offender has 2 prior misdemeanor convictions or prior misdemeanor juvenile adjudications. . . . . 5 points

(e) The offender has 1 prior misdemeanor conviction or prior misdemeanor juvenile adjudication . . . . . 2 points

(f) The offender has no prior misdemeanor convictions or prior misdemeanor juvenile adjudications . . . . . 0 points

(2) All of the following apply to scoring record variable 5:

(a) Except as provided in subdivision (b), count a prior misdemeanor conviction or prior misdemeanor juvenile adjudication only if it is an offense against a person or property, a controlled substance offense, or a weapon offense. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(b) Count all prior misdemeanor convictions and prior misdemeanor juvenile adjudications for operating or attempting to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while under the influence of or impaired by alcohol, a controlled substance, or a combination of alcohol and a controlled substance. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(3) As used in this section:

(a) "Prior misdemeanor conviction" means a conviction for a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the conviction was entered before the sentencing offense was committed.

(b) "Prior misdemeanor juvenile adjudication" means a juvenile adjudication for conduct that if committed by an adult would be a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the order of disposition was entered before the sentencing offense was committed.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.57 Subsequent or concurrent felony convictions.

Sec. 57. (1) Prior record variable 7 is subsequent or concurrent felony convictions. Score prior record variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 2 or more subsequent or concurrent convictions . . . . . 20 points

(b) The offender has 1 subsequent or concurrent conviction . . . . . 10 points

(c) The offender has no subsequent or concurrent convictions . . . . . 0 points

(2) All of the following apply to scoring record variable 7:

(a) Score the appropriate point value if the offender was convicted of multiple felony counts or was convicted of a felony after the sentencing offense was committed.

(b) Do not score a felony firearm conviction in this variable.

(c) Do not score a concurrent felony conviction if a mandatory consecutive sentence will result from that conviction.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999.

CRIME VICTIM'S RIGHTS ACT (EXCERPTS)
Act 87 of 1985

AN ACT to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies.

History: 1985, Act 87, Eff. Oct. 9, 1985.5;—Am. 1988, Act 22, Eff. June 1, 1988.

The People of the State of Michigan enact:

ARTICLE 1

780.753 Information to be given victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information in writing:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statements:

"If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them."

"If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case.".

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

780.754 Return of property to victim; retention of evidence.

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

History: 1985, Act 87, Eff. Oct. 9, 1985.

ARTICLE 3

780.811 Definitions; physical or emotional inability of victim to exercise rights and privileges; ineligibility to exercise privileges and rights.

Sec. 61. (1) Except as otherwise defined in this article, as used in this article:

(a) "Serious misdemeanor" means 1 or more of the following:

(*i*) A violation of section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, assault and battery, including domestic violence.

(*ii*) A violation of section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a, assault; infliction of serious injury, including aggravated domestic violence.

(*iii*) A violation of section 115 of the Michigan penal code, 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

(*iv*) A violation of section 136b(6) of the Michigan penal code, 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

(*v*) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

(*vi*) A violation of section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234, discharge of a firearm intentionally aimed at a person.

(*vii*) A violation of section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235, discharge of an intentionally aimed firearm resulting in injury.

(*viii*) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(*ix*) A violation of section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal injury accident.

(*x*) A violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(*xi*) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in physical injury or death to any individual.

(*xii*) A violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, stalking.

(*xiii*) A violation of section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

(*xiv*) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (*i*) to (*xiii*).

(*xv*) A violation charged as a crime or serious misdemeanor enumerated in subparagraphs (*i*) to (*xiv*) but subsequently reduced to or pleaded to as a misdemeanor. As used in this subparagraph, "crime" means that term as defined in section 2.

(b) "Defendant" means a person charged with or convicted of having committed a serious misdemeanor against a victim.

(c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of a sentence by the court.

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(f) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim" means any of the following:

(*i*) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a serious misdemeanor, except as provided in subparagraph (*ii*), (*iii*), or (*iv*).

(*ii*) The following individuals other than the defendant if the victim is deceased:

(A) The spouse of the deceased victim.

(B) A child of the deceased victim if the child is 18 years of age or older and sub-subparagraph (A) does not apply.

(C) A parent of a deceased victim if sub-subparagraphs (A) and (B) do not apply.

(D) The guardian or custodian of a child of a deceased victim if the child is less than 18 years of age and sub-subparagraphs (A) to (C) do not apply.

(E) A sibling of the deceased victim if sub-subparagraphs (A) to (D) do not apply.

(F) A grandparent of the deceased victim if sub-subparagraphs (A) to (E) do not apply.

(*iii*) A parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

(*iv*) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process if he or she is not the defendant and is not incarcerated.

(2) If a victim as defined in subsection (1)(g)(*i*) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse, child 18 years of age or older, parent, sibling, or grandparent or any other person 18 years of age or older who is neither the defendant nor incarcerated to act in his or her place while the physical or emotional disability continues. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a serious misdemeanor, a crime as defined in section 2, or an offense as defined in section 31 arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims under this article.

(4) An individual who is incarcerated is not eligible to exercise the privileges and rights established for victims under this article except that he or she may submit a written statement to the court for consideration at sentencing.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 82, Imd. Eff. Feb. 27, 1996;—Am. 2000, Act 503, Eff. June 1, 2001.

780.814 Return of property to victim; exceptions.

Sec. 64. (1) The law enforcement agency having responsibility for investigating a reported serious misdemeanor shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the serious misdemeanor and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

History: Add. 1988, Act 21, Eff. June 1, 1988.

DEPARTMENT OF CORRECTIONS (EXCERPT)
Act 232 of 1953

AN ACT to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1980, Act 303, Imd. Eff. Nov. 26, 1980;—Am. 1984, Act 102, Imd. Eff. May 8, 1984;—Am. 1988, Act 510, Eff. Mar. 30, 1989;—Am. 1992, Act 22, Imd. Eff. Mar. 19, 1992;—Am. 1993, Act 184, Imd. Eff. Sept. 30, 1993;—Am. 1996, Act 164, Eff. Mar. 31, 1997.

Compiler's note: For transfer of the Department of Corrections to a new Department of Corrections, see E.R.O. No. 1991-12, compiled at § 791.302 of the Michigan Compiled Laws.

For abolition of the Michigan Corrections Commission and transferring its powers, duties, and functions to the Director of the new Department of Corrections with the exception that the power to appoint the Director shall be vested with the Governor, see E.R.O. No. 1991-12, compiled at § 791.302 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

CHAPTER I.

DEPARTMENT OF CORRECTIONS.

791.206 Rules generally.

Sec. 6. (1) The director may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, which may provide for all of the following:

(a) The control, management, and operation of the general affairs of the department.

(b) Supervision and control of probationers and probation officers throughout this state.

(c) The manner in which applications for pardon, reprieve, medical commutation, or commutation shall be made to the governor; the procedures for handling applications and recommendations by the parole board; the manner in which paroles shall be considered, the criteria to be used to reach release decisions, the procedures for medical and special paroles, and the duties of the parole board in those matters; interviews on paroles and for the notice of intent to conduct an interview; the entering of appropriate orders granting or denying paroles; the supervision and control of paroled prisoners; and the revocation of parole.

(d) The management and control of state penal institutions, correctional farms, probation recovery camps, and programs for the care and supervision of youthful trainees separate and apart from persons convicted of crimes within the jurisdiction of the department. Except as provided for in section 62(3), this subdivision shall not apply to detention facilities operated by local units of government used to detain persons less than 72 hours. The rules may permit the use of portions of penal institutions in which persons convicted of crimes are detained. The rules shall provide that decisions as to the removal of a youth from the youthful trainee facility or the release of a youth from the supervision of the department shall be made by the department and shall assign responsibility for those decisions to a committee.

(e) The management and control of prison labor and industry.

(2) The director may promulgate rules providing for a parole board structure consisting of 3-member panels.

(3) The director may promulgate further rules with respect to the affairs of the department as the director considers necessary or expedient for the proper administration of this act. The director may modify, amend, supplement, or rescind a rule.

(4) The director and the corrections commission shall not promulgate a rule or adopt a guideline that does either of the following:

(a) Prohibits a probation officer or parole officer from carrying a firearm while on duty.

(b) Allows a prisoner to have his or her name changed. If the Michigan supreme court rules that subsection 4(b) is violative of constitutional provisions under the first and fourteenth amendments to the United States constitution and article I, sections 2 and 4 of the Michigan constitution of 1963, the remaining provisions of the code shall remain in effect.

(5) If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the department shall not promulgate rules under this section.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1966, Act 210, Imd. Eff. July 11, 1966;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1984, Act 102, Imd. Eff. May 8, 1984;—Am. 1986, Act 271, Imd. Eff. Dec. 19, 1986;—Am. 1996, Act 104, Eff. Apr. 1, 1996.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Administrative rules: R 791.1101 *et seq.* of the Michigan Administrative Code.

PRISON CODE (EXCERPT)
Act 118 of 1893

AN ACT to revise and consolidate the laws relative to state prisons, to state houses of correction, and branches of state prisons and reformatories, and the government and discipline thereof and to repeal all acts inconsistent therewith.

History: 1893, Act 118, Imd. Eff. May 26, 1893;—Am. 1978, Act 80, Eff. Sept. 1, 1978.

The People of the State of Michigan enact:

800.43 Receipt or possession of certain material; prohibition; list; notice; appeal; limits on amount.

Sec. 43. (1) The department may prohibit a prisoner from receiving or possessing any material that the department determines under this section is detrimental to the security, good order, or discipline of the institution, or that may facilitate or encourage criminal activity, or that may interfere with the rehabilitation of any prisoner. The department shall not prohibit a prisoner from receiving or possessing any material solely because the content of that material is religious, philosophical, political, social, or sexual, or because it is unpopular or repugnant. Material that may be prohibited under this section includes, but is not limited to, any of the following:

(a) Material that depicts or describes procedures for constructing or using weapons, ammunition, bombs, or incendiary devices.

(b) Material that depicts, encourages, or describes methods of escaping from correctional facilities or that contains blueprints, drawings, or similar descriptions of department institutions or facilities.

(c) Material that depicts or describes procedures for manufacturing alcoholic beverages or drugs.

(d) Material that is written in code.

(e) Material that depicts, describes, or encourages activities that may lead to the use of physical violence or group disruption.

(f) Material that encourages or provides instruction in criminal activity.

(g) Material that is sexually explicit and that by its nature or content poses a threat to the security, good order, or discipline of the institution, facilitates criminal activity, or interferes with the rehabilitation of any prisoner.

(2) The department of corrections shall not establish a list of material that may be prohibited under this section before the material is reviewed. This subsection does not prevent the department from prohibiting other prisoners from receiving or possessing identical copies of the material without review after the material has been initially reviewed.

(3) If a publication is prohibited by the department, the department shall promptly notify the prisoner in writing that the material is prohibited and the reasons it is prohibited. The notice shall state the specific content upon which the prohibition is based. The department shall allow the prisoner to review the material to determine whether he or she wishes to administratively appeal the department's decision to prohibit the material unless the review would threaten the security, good order, or discipline of the institution, encourage or provide instruction in criminal activity, or interfere with the rehabilitation of any prisoner.

(4) This section does not prohibit the department from setting limits on the amount of material an inmate may receive or retain in his or her quarters for fire, sanitation, or housekeeping reasons.

History: Add. 1996, Act 549, Imd. Eff. Jan. 15, 1997.

Compiler's note: Former § 800.43, which pertained to prison books and papers as public property, was repealed by Act 179 of 1972, Imd. Eff. June 16, 1972.

LIQUOR, NARCOTICS, AND WEAPONS PROHIBITED IN PRISONS (EXCERPTS)
Act 17 of 1909

AN ACT to prohibit or limit the access by prisoners and by employees of correctional facilities to certain weapons and to alcoholic liquor, drugs, medicines, poisons, and controlled substances in, on, or outside of correctional facilities; to prohibit or limit the bringing into or onto certain facilities and real property, and the disposition of, certain weapons and substances; to prohibit or limit the selling, giving, or furnishing of certain weapons and substances to prisoners; to prohibit the control or possession of certain weapons and substances by prisoners; and to prescribe penalties.

History: 1909, Act 17, Eff. Sept. 1, 1909;—Am. 1977, Act 164, Imd. Eff. Nov. 10, 1977;—Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982.

The People of the State of Michigan enact:

800.283 Weapons; prohibitions.

Sec. 3. (1) Unless authorized by the chief administrator of the correctional facility, a weapon or other implement which may be used to injure a prisoner or other person, or in assisting a prisoner to escape from imprisonment, shall not be sold, given, or furnished, either directly or indirectly, to a prisoner who is in or on the correctional facility, or be disposed of in a manner or in a place that it may be secured by a prisoner who is in or on the correctional facility.

(2) Unless authorized by the chief administrator of the correctional facility, a person, who knows or has reason to know that another person is a prisoner, shall not sell, give, or furnish, either directly or indirectly, to that prisoner anywhere outside of a correctional facility a weapon or other implement which may be used to injure a prisoner or other person or in assisting a prisoner to escape from imprisonment.

(3) Unless authorized by the chief administrator of the correctional facility, a weapon or other implement which may be used to injure a prisoner or other person, or in assisting a prisoner to escape from imprisonment, shall not be brought into or onto any correctional facility.

(4) Unless authorized by the chief administrator of the correctional facility, a prisoner shall not have in his or her possession or under his or her control a weapon or other implement which may be used to injure a prisoner or other person, or to assist a prisoner to escape from imprisonment.

History: 1909, Act 17, Eff. Sept. 1, 1909;—CL 1915, 1829;—CL 1929, 17655;—CL 1948, 800.283;—Am. 1972, Act 105, Imd. Eff. Mar. 29, 1972;—Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982.

800.284 Search of persons coming to correctional facility.

Sec. 4. The chief administrator of a correctional facility may search, or have searched, any person coming to the correctional facility as a visitor, or in any other capacity, who is suspected of having any weapon or other implement which may be used to injure a prisoner or other person or in assisting a prisoner to escape from imprisonment, or any alcoholic liquor, prescription drug, poison, or controlled substance upon his or her person.

History: 1909, Act 17, Eff. Sept. 1, 1909;—CL 1915, 1830;—CL 1929, 17656;—CL 1948, 800.284;—Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982.

800.285 Violation as felony; penalty; prosecution for delivery or possession of controlled substance.

Sec. 5. (1) Except as provided in subsection (2), a person violating this act is guilty of a felony, punishable by a fine of not more than $1,000.00, or imprisonment for not more than 5 years, or both.

(2) If the delivery of a controlled substance is a felony punishable by imprisonment for more than 5 years under part 74 of Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7415 of the Michigan Compiled Laws, a person who gives, sells, or furnishes a controlled substance in violation of section 1 of this act shall not be prosecuted under this section for that giving, selling, or furnishing. If the possession of a controlled substance is a felony punishable by imprisonment for more than 5 years under part 74 of Act No. 368 of the Public Acts of 1978, a person who possesses, or brings into a correctional facility, a controlled substance in violation of section 1 of this act shall not be prosecuted under this section for that possession.

History: 1909, Act 17, Eff. Sept. 1, 1909;—CL 1915, 1831;—CL 1929, 17657;—CL 1948, 800.285;—Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982.

COUNTY JAIL OVERCROWDING STATE OF EMERGENCY (EXCERPTS)
Act 325 of 1982

AN ACT to authorize county sheriffs to declare a county jail overcrowding state of emergency; to prescribe the powers and duties of certain judges, county sheriffs, and other county officials; and to provide remedies for a county jail overcrowding state of emergency.

History: 1982, Act 325, Eff. Feb. 8, 1983.

The People of the State of Michigan enact:

801.58 Failure of certain actions to reduce population to level prescribed in § 801.56(1); deferring acceptance for incarceration of certain persons.

Sec. 8. (1) Except as otherwise provided in this subsection and subsection (2), if the actions taken pursuant to sections 5, 6, and 7 do not reduce the county jail's population to the level prescribed in section 6(1) within 42 days of the declaration of the county jail overcrowding state of emergency, the sheriff shall defer acceptance for incarceration in the general population of the county jail persons sentenced to or otherwise committed to the county jail for incarceration until the county jail overcrowding state of emergency is ended pursuant to section 9, except that the sheriff shall not defer acceptance for incarceration all persons under sentence for or charged with violent or assaultive crimes, sex offenses, escape from prison or jail, controlled substance offenses, or weapons offenses.

(2) The sheriff shall not defer acceptance of a prisoner for incarceration into the general population of the county jail if both of the following occur:

(a) The sheriff or the sentencing judge presents to the chief circuit judge for the county in which the county jail is located information alleging that deferring acceptance of the prisoner for incarceration would constitute a threat to public safety.

(b) The chief circuit judge, based upon the presence of a threat to public safety, approves of accepting the prisoner for incarceration.

History: 1982, Act 325, Eff. Feb. 8, 1983;—Am. 1988, Act 399, Imd. Eff. Dec. 27, 1988.

801.60 Listing of crimes and offenses; development.

Sec. 10. For purposes of section 8, a listing of violent or assaultive crimes, sex offenses, escape from prison or jail offenses, controlled substance offenses, and weapons offenses shall be developed by the office of criminal justice in the department of management and budget.

History: 1982, Act 325, Eff. Feb. 8, 1983.

Compiler's note: For transfer of powers and duties of former office of criminal justice under the county jail overcrowding act from department of management and budget to office of attorney general, see E.R.O. No. 1994-6, compiled at § 801.71 of the Michigan Compiled Laws.

ALCOHOLIC LIQUOR, CONTROLLED SUBSTANCES, AND WEAPONS (EXCERPTS)
Act 7 of 1981

AN ACT to prohibit without authorization the bringing into jails and other specified areas any alcoholic liquor, controlled substances, weapons, and certain other items; the selling or furnishing to prisoners, and the improper disposal of any alcoholic liquor, controlled substances, weapons, and certain other items; the possession or control by prisoners of any alcoholic liquor, controlled substances, weapons, and certain other items; to prescribe a penalty; and to repeal certain acts and parts of acts.

History: 1981, Act 7, Eff. June 1, 1981.

The People of the State of Michigan enact:

801.261 Definitions.

Sec. 1. As used in this act:

(a) "Alcoholic liquor" means any spiritous, vinous, malt, or fermented liquor, liquid, or compound whether or not medicated, containing 1/2 of 1% or more of alcohol by volume and which is or readily can be made suitable as a beverage.

(b) "Controlled substance" means a drug, substance, or immediate precursor in schedules 1 to 5 of part 72 of Act No. 368 of the Public Acts of 1978, as amended, being sections 333.7201 to 333.7231 of the Michigan Compiled Laws.

(c) "Jail" means a municipal or county jail, work-camp, lockup, holding center, half-way house, community corrections center, house of correction, or any other facility maintained by a municipality or county which houses prisoners.

(d) "Prisoner" means a person incarcerated in a jail or a person committed to a jail for incarceration who is a participant in a work release or vocational or educational study release program.

History: 1981, Act 7, Eff. June 1, 1981;—Am. 1985, Act 46, Imd. Eff. June 14, 1985.

801.262 Prohibited acts; weapons.

Sec. 2. (1) Unless authorized by the chief administrator of the jail, a person shall not do either of the following:

(a) Bring into a jail or a building appurtenant to a jail, or onto the grounds used for jail purposes, for the use or benefit of a prisoner, any weapon or other item that may be used to injure a prisoner or other person, or used to assist a prisoner in escaping from jail.

(b) Sell or furnish to a prisoner, or dispose of in a manner that allows a prisoner access to the weapon or other item, any weapon or other item which may be used to injure a prisoner or other person, or used to assist a prisoner in escaping from jail.

(2) Unless authorized by the chief administrator of the jail, a prisoner shall not possess or have under his or her control any weapon or other item that may be used to injure a prisoner or other person, or used to assist a prisoner in escaping from jail.

History: 1981, Act 7, Eff. June 1, 1981.

OPINIONS OF THE ATTORNEY GENERAL

Opinion No. 5210
August 10, 1977

FIREARMS:
Possession of an automatic weapon.
It is illegal for a person to possess an automatic weapon or a weapon equipped with a silencer.

Honorable Joyce Symons
State Representative
The Capitol
Lansing, Michigan 48901

You have requested an opinion concerning the laws dealing with automatic weapons and silencers. In particular, you have requested my opinion as to licensure for the acquisition and possession of an automatic weapon by a private citizen in Michigan assuming that all federal requirements have been met.

The relevant statute is the Michigan Penal Code, 1931 PA 328, Ch XXXVII, Sec. 14; MCLA 750.224; MSA 28.421, which provides:

> 'Any person who shall manufacture, sell, offer for sale or possess any machine gun or firearm which shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, . . . shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than $2,500.00.
>
> 'The provisions of this section shall not apply . . . to any person duly licensed to manufacture, sell, or possess any machine gun . . . or contrivance above mentioned.' *[Emphasis added]*

Thus, Michigan law does not permit a person to possess an automatic weapon or a weapon equipped with a silencer unless the person in possession is duly licensed.

There is, however, no provision under Michigan law for the licensing of such devices.(1)

The legislature last amended 1931 PA 328, Ch XXXVII, Sec. 24, *supra*, by 1959 PA 175. It did so by enacting House Bill No. 423, 2 House Journal 1959, p 28-29, but did not enact a companion bill, House Bill No 424 providing for the issuance of permits for ownership and possession of machine guns. The bill was not approved by the legislature. 1 House Journal 1959, pp 1327-1328.

Thus, the legislature, in rejecting a bill providing for licensure for the ownership and possession of a machine gun, must have intended that there be no provision in Michigan law for the acquisition and possession of an automatic weapon by a private citizen.

It is therefore my opinion that the legislature has not provided for the issuance of permits for acquisition or possession of a machine gun or a weapon equipped with a silencer by a private individual.

Frank J. Kelley
Attorney General

Opinion No. 5960
August 18, 1981

FIREARMS:
Limitation on target practice within a township
The Game Law of 1929, 1929 PA 286, Sec. 10b does not prohibit target practice within a township.
A hunting area control committee is empowered to adopt regulations prohibiting the discharge of firearms in a township or portions thereof in accordance with 1967 PA 159.

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(1) It should also be noted that careful research has failed to reveal that there is a federal statute providing for issuance of a license to possess a machine gun. The National Firearms Act amendments of 1968, 82 Stat 1229 (1968); 26 USC 5841, provides that the Secretary of Treasury or his delegate shall maintain a central registry of firearms not in the possession or under the control of the United States and 82 Stat 1234 (1968); 26 USC 5861, further provides that it is unlawful for a person to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record. It will be noted, however, that this registration requirement of federal law is not a licensing statute as there is a distinct difference between a requirement for licensure and a requirement for registration.

Mr. Doyle A. Rowland
Prosecuting Attorney
County of Midland
Courthouse
Midland, Michigan 48640

You have requested my opinion on the following question:

Does MCLA 312.10b(2) prohibit a land-owner from target practicing on his own property located in a township where other residences are within 150 yards, even though such target practicing is carried on in a safe and prudent manner?

The Game Law of 1929, 1929 PA 286, Sec. 10b, as added by 1968 PA 61, MCLA 312.10b; MSA 13.1339(2),[1] provides as follows:

> '(1) For the purpose of this section, 'safety zone' means any area within 150 yards of any occupied dwelling house, residence, or any other building, cabin, camp or cottage when occupied by human beings or any barn or other building used in connection therewith.
>
> '(2) No person, other than the owner, tenant or occupant, shall shoot or discharge any firearm or other dangerous weapon, or hunt for or shoot any wild bird or wild animal while it is within such safety zone, without the specific permission of the owner, tenant or occupant thereof.
>
> '(3) The provisions of this section shall not apply to any landowner, tenant or occupant thereof or their invited guest while hunting on their own property, or to any riparian owner or their tenant or guest while shooting waterfowl lakeward over water from their upland or lakeward from a boat or blind over their submerged soil.'

At the time the Legislature enacted amendatory 1968 PA 61, the title to 1929 PA 286, *supra*, stated:

> 'AN ACT to provide for the protection of wild animals and wild birds; to regulate the taking, possession, use and transportation of same; to prohibit the sale of game animals and birds; to regulate the manner of hunting, pursuing and killing game animals, birds and fur-bearing animals; to provide for the issuing of licenses and permits for the taking, hunting or killing of all wild animals and birds and the disposition of the moneys derived therefrom; to provide penalties for the violation of any of the provisions of this act, and to repeal certain acts relating thereto.'

1968 PA 61 did not amend the title to 1929 PA 286, *supra*.

It is a cardinal rule of statutory construction that the Legislature is presumed to have intended the plain meaning of words used by it. *Florentine Ristorante, Inc v City of Grandville*, 88 Mich App 614, 619; 278 NW2d 694, *lv den* 406 Mich 963 (1979).

The Legislature in the enactment of 1929 PA 286, *supra*, indicated in the title thereof its intention to provide for the protection of wild animals and wild birds; to regulate the taking, possession, use and transportation of same; and, to regulate the manner of hunting, pursuing and killing game animals, birds and fur-bearing animals.

1929 PA 286, Sec. 10b, *supra*, as set forth above in (2) thereof, further regulates the hunting and taking of wild birds or wild animals within the safety zone as defined in (1). The focus of this section is the hunting and taking of wild birds and wild animals.

Thus, the intention of the Legislature, 1929 PA 286, Sec. 10b, *supra*, was the control and limitation of the discharge of weapons in the hunting and taking of wild birds and wild game and not the discharge of weapons in target practice activities.

It is my opinion, therefore, that 1929 PA 286, Sec. 10b(2), *supra*, does not prohibit a landowner from target practicing on his own property where other residences are within 150 yards, even though target practice is carried on in a safe and prudent manner.

While 1929 PA 286, Sec. 10b, *supra*, does not regulate or prohibit target practice within a township not involving hunting, the Legislature has provided for the regulation and prohibition of the discharge of firearms in townships by 1967 PA 159, MCLA 317.331 *et seq*; MSA 13.1397(101) *et seq*. In 1967 PA 159, *supra*, Sec. 1, the Legislature has authorized the creation of a hunting area control committee and empowered it, in the interest of public safety and general welfare, to regulate and prohibit the discharge of firearms upon resolution of the township board that the safety and well being of persons or property are in danger because of the discharge of firearms. 1967 PA 159, *supra*, Sec. 2. After a public hearing,

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[1] The Legislature has enacted the Hunting and Fishing License Act, 1980 PA 86, MCLA 316.10 *et seq*; MSA 13.1350(101) *et seq*, repealing many sections of 1929 PA 286, *supra*, but leaving Sec. 10b intact.

the committee submits its findings and recommendations in the form of proposed regulations to the township board for its approval. 1967 PA 159, *supra*, Sec. 3. If the township board approves the proposed regulations, the committee reports them in accordance with 1969 PA 306, MCLA 24.201 *et seq*; MSA 3.560(101) *et seq*. For examples of regulations promulgated by such committees, see 1979 MAC R 317.120.3 *et seq*.

It is further my opinion that a hunting area control committee is empowered to prohibit the discharge of firearms in the township or portions thereof.

Frank J. Kelley
Attorney General

Opinion No. 6015
November 30, 1981

WEAPONS:
Peace officers possessing automatic weapons
A peace officer may acquire and possess, without a license, an automatic weapon provided that the employer of the peace officer does not adopt a rule or policy prohibiting the acquisition or possession of such automatic weapons.

Honorable Dan L. DeGrow
State Representative
State Capitol Building
Lansing, Michigan

You have requested my opinion on whether peace officers may possess automatic weapons.

The Michigan Penal Code, 1931 PA 328, Ch XXXVII, Sec. 224(1), as last amended by 1980 PA 346; MCLA 750.224; MSA 28.421, provides:

> 'A person shall not manufacture, sell, offer for sale, or possess a machine gun or firearm which shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger; a muffler, silencer, or device for deadening or muffling the sound of a discharged firearm; a bomb or bombshell; a blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon; or any type of device, weapon, cartridge, container, or contrivance designed for the purpose of rendering a person either temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance. A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than $2,500.00, or both.' (Emphasis added.)

OAG, 1977-1978, No 5210, p 189 (August 10, 1977), concluded that it is unlawful for a private citizen to acquire or possess, without a license, a machine gun or a weapon with a silencer.

In 1931 PA 328, Ch XXXVII, Sec. 231; MCLA 750.231; MSA 28.428, the Legislature has provided an exception to the restrictions of 1931 PA 328, Ch XXXVII, Sec. 224, *supra*, as follows:

> 'Sections 224 and 227 do not apply to any peace officer of a duly authorized police agency of the United States or of the state or any subdivision thereof who is regularly employed and paid by the United States or the state or such subdivision, nor to any person regularly employed by the state department of corrections, and authorized in writing by the director of corrections to carry a concealed weapon while in the official performance of his duties or while going to or returning from such duties, nor to any member of the army, air force, navy or marine corps of the United States when carrying weapons in line of or incidental to duty, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to members of the national guard, armed forces reserves or other duly authorized military organizations when on duty or drill, or in going to or returning from their places of assembly or practice by a direct route or otherwise, while carrying weapons used for purposes of the national guard, armed forces reserves or other duly authorized military organizations.' (Emphasis added.)

A plain reading of 1931 PA 328, Ch XXXVII, Sec. 231, *supra*, indicates that the proscriptions contained in 1931 PA 328, Ch XXXVII, Sec. 224, *supra*, have no application to peace officers who are regularly employed and paid by the State of Michigan or any subdivision thereof. The Legislature has imposed no conditions upon the peace officer exemption other than the requirements that the peace officer be regularly employed and paid by the state or any subdivision thereof. On the other hand, persons employed by the Department of Corrections are exempted from 1931 PA 328, Ch XXXVII, Sec. 224, *supra*,

only if that person has authorization in writing to carry a concealed weapon and only 'while in the official performance of his duties or while going to or returning from such duties.' Similarly, members of the Army, Air Force, Navy or Marine Corps are exempt only 'when carrying weapons in the line of or incidental to duty.' Likewise, members of the National Guard, Armed Forces Reserves or other duly authorized military organizations are exempt 'when on duty or drill,' in transportation of these weapons by direct route or otherwise, or while carrying such weapons for purposes arising out of their military duties.

If a statute is clear and unambiguous, judicial construction or interpretation is unwarranted. *Nordman v Calhoun*, 332 Mich 460; 51 NW2d 906 (1952). Moreover, because 1931 PA 328, Ch XXXVII, Secs. 224 and 231, *supra*, are penal in nature, they must be strictly construed. *People v Lockwood*, 308 Mich 618, 622; 14 NW2d 517, 518 (1944); *People v Reynolds*, 71 Mich 343, 348; 38 NW 923, 925 (1888). 1931 PA 328, Ch XXXVII, Sec. 231, *supra*, is clear and unambiguous. Unlike employees of the Department of Corrections or military personnel, no conditions are attached to the exemption as it relates to peace officers regularly employed and paid by the state or any subdivision thereof.

While the wisdom of a public policy permitting peace officers to acquire automatic weapons is open to doubt, I am constrained to conclude that the Legislature has permitted regularly employed and paid peace officers to acquire and possess automatic weapons without a license.

However, there is nothing in 1931 PA 328, Ch XXXVII, Sec. 231, *supra*, which would prevent or limit the director of the Department of State Police, county sheriffs, local chiefs of police, or other police supervisory councils from placing restrictions upon the acquisition and possession of such weapons. In *Eaton County Deputy Sheriffs Associations v Eaton County Sheriff*, 37 Mich App 427; 195 NW2d 12 (1971), the court held that a sheriff has the authority to prohibit his deputies from carrying their own service revolvers while off duty notwithstanding the statutory exemption for peace officers contained in 1931 PA 328, Ch XXXVII, Sec. 231, *supra*. In its opinion, the court noted:

> 'We find that the exemption of peace officers from obtaining licenses to carry concealed weapons in no way limits the power inherent in the office of sheriff to promulgate rules and regulations pertaining to the employment of deputies. MCLA Sec. 750.231 (Stat Ann 1971 Cum Supp Sec. 28.428) merely provides that Secs. 224 and 227 do not apply to peace officers. Therefore, the officers may carry concealed weapons without being guilty of a felony.
>
> 'However, in our opinion, MCLA Sec. 750.231 in no way limits the power of the sheriff to make rules and regulations which, in his opinion, improve the quality of law enforcement and increase the safety of the citizens in the community. We therefore hold that the trial court was correct in dismissing the plaintiff's complaint.'

It also should be observed that 1935 PA 59, Sec. 9; MCLA 28.9; MSA 4.439, vests the director of the Department of State Police with authority to adopt rules and regulations for the control, discipline and conduct of members of the department; 1895 PA 3, Ch VII, Sec. 45; MCLA 67.45; MSA 5.1329, authorizes the village council to make all necessary rules for the government of the village police department; and 1951 PA 181, Sec. 5; MCLA 41.855; MSA 5.2640(35), empowers the township board of any township to establish rules and regulations for the operation of the township police department and its officers, detectives and employees. As to cities, the Michigan Supreme Court has held that members of a city police department subject themselves to reasonable rules and regulations adopted by the board of control of the department. *Aller v Detroit Police Department Trial Board*, 309 Mich 382; 15 NW2d 676 (1944).

It is my opinion, therefore, that peace officers in Michigan may possess, without a license, machine guns or other automatic weapons, subject to restrictions placed upon such acquisition or possession by their supervisory board or official, as the case may be.

Frank J. Kelley
Attorney General

Opinion No. 6280
March 20, 1985

PISTOLS:
Firearm fully operable when folded or contracted with length of 30 inches or less as a pistol

SHORT-BARRELED RIFLE:
Rifle fully operable with stock folded or contracted as a 'short-barreled rifle'

SHORT-BARRELED SHOTGUN:
Shotgun fully operable with stock folded or contracted as a 'short-barreled shotgun'

WEAPONS:
Firearm fully operable when folded or contracted with length of 30 inches or less as a pistol
A firearm containing a stock capable of being contracted or folded to an overall length of 30 inches or less and being fully operable in such contracted or folded condition is a pistol requiring licensure for purchase, carrying or transport, and is subject to safety inspection.
A rifle with a barrel of at least 16 inches in length and a stock capable of being contracted or folded to an overall length of less than 26 inches, being fully operable in such contracted or folded condition, is a 'short-barreled rifle' whose sale or possession is prohibited.
A shotgun with a barrel of at least 18 inches in length and a stock capable of being contracted or folded to an overall length of less than 26 inches, being fully operable in such contracted or folded condition, is a 'short-barreled shotgun' whose sale or possession is prohibited.

Colonel Gerald L. Hough
Director
Michigan Department of State Police
714 S. Harrison Road
East Lansing, MI 48823

You have requested my opinion on two questions relating to certain firearms. Examples of the types of firearms at issue include the UZI semiautomatic carbine rifle (barrel length—16.1 inches; length with stock contracted—24.4 inches; length with stock expanded—31.5 inches); the Remington 870P shotgun (barrel length—18 inches; length with stock folded—28.5 inches; length with stock unfolded—38.5 inches); and the Universal Firearms #5000-PT semiautomatic carbine rifle (barrel length—18 inches; length with stock folded—27 inches; length with stock unfolded—36 inches).

Your first question is:

Are firearms with folding and/or telescoping stocks which are fully operable with the stocks folded or contracted and whose lengths are 30 inches or less with the stocks folded or contracted 'pistols,' as defined in MCL 28.421 *et seq*; MSA 28.91 *et seq*, and, thus, subject to the provisions contained therein?

The definition of the term 'pistol' is set forth in subsection (a) of MCL 28.421; MSA 28.91:

> "Pistol' means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.'

'Firearm' is defined in MCL 8.3t; MSA 2.212(20):

> 'The word 'firearm', except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of spring, gas or air.'

In *Huron Advertising Co v Charter Twp of Pittsfield*, 110 Mich App 398, 402; 313 NW2d 132 (1981), *lv den*, 414 Mich 855 (1982), the court stated:

> 'All words and phrases in ordinances and statutes must be construed according to their common and approved usage. . . . Effect must also be given to each part of a sentence, so as not to render another part nugatory. . . . Judicial construction of a statute or ordinance is inappropriate where the language of the statute is unambiguous.'

The definition of the term 'pistol' in MCL 28.421; MSA 28.91, is unambiguous. It clearly covers all firearms which are not more than 30 inches in length. The firearms which are described generally in the first question and specifically in the examples are fully operable when they are 30 inches or less in length and are pistols under MCL 28.422; MSA 28.92.

MCL 28.422; MSA 28.92, provides that no person shall purchase, carry or transport a pistol without first obtaining a license therefor. A person who owns or comes into possession of a pistol is required to present such weapon for safety inspection to the applicable local law enforcement officer in accordance with MCL 28.429; MSA 28.99.

It is my opinion, therefore, that a firearm which may be contracted or folded to 30 inches or less and is fully operable in such condition is a pistol requiring licensure for purchase, carrying or transport, and is subject to safety inspection.

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(2) It should be noted that the discussion in response to Question 3 recognizes the distinction between the construction contract pursuant to which the contractor constructs the desired improvements and that instrument pursuant to which the contractor as lender would loan money to the township.

Your second question is:

> Are rifles and shotguns whose barrels are at least 16 and 18 inches in length, respectively, with folding and/or telescoping stocks which are fully operable with the stocks folded or contracted and whose lengths are less than 26 inches with the stocks folded or contracted 'short-barreled rifles' and 'short-barreled shotguns,' respectively, as defined in MCL 750.222 *et seq*; MSA 28.419 *et seq*, and, thus, subject to the provisions contained therein?

MCL 750.222; MSA 28.419, in pertinent part, provides:

> '(d) 'Shotgun' means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.
>
> '(e) 'Short-barreled shotgun' means a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.
>
> '(f) 'Rifle' means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
>
> '(g) 'Short-barreled rifle' means a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.'

MCL 750.224b; MSA 28.421(1), provides that a person who manufactures, sells, offers for sale, or possesses a short-barreled shotgun or a short-barreled rifle is guilty of a felony. This section specifically exempts from its provisions the sale, offering for sale or possession of a short-barreled rifle or a short-barreled shotgun which the Secretary of the Treasury of the United States has found to be a curio, relic, antique, museum piece, or collector's item not likely to be used as a weapon, but only if the person selling, offering for sale or possessing the firearm has fully complied with the provisions of MCL 28.422; MSA 28.92 and MCL 28.429; MSA 28.99.

The firearms which are referred to in the second question will fall within the definition of a short-barreled rifle or a short-barreled shotgun only if they are considered to have been made from a rifle or shotgun 'by alteration, modification, or otherwise' and are capable of being folded or contracted to less than 26 inches in length. It is unclear what is meant by the phrase 'by alteration, modification, or otherwise' as used in MCL 750.222; MSA 28.419.

To resolve a perceived ambiguity, a court will look to the object of the statute or rule, the evil or mischief which it is designed to remedy, and will apply a reasonable construction which best accomplishes the purpose of the statute or rule. *Johnston v Billot*, 109 Mich App 578, 589, 590; 311 NW2d 808 (1981), *lv den*, 414 Mich 955 (1982). In construing a statute, legislative intent may be determined from consideration of all provisions of the enactment in question. *Wheeler v Tucker Freight Lines Co, Inc.*, 125 Mich App 123, 126; 336 NW2d 14 (1983), *lv den*, 418 Mich 867 (1984).

It has been held that the term 'alteration' means a change of a thing from one form or state to another, making it different from what it was without destroying its identity. *Paye v City of Grosse Pointe*, 279 Mich 254, 257; 271 NW 826 (1937).

It is clear that if a person altered or modified a rifle or a shotgun with a fixed stock by shortening that stock so that the overall length of the rifle or the shotgun was less than 26 inches, such a firearm would fall within the definition of a short-barreled rifle or a short-barreled shotgun. Sale or possession of such firearms is prohibited by MCL 750.224b; MSA 28.421(2):

> '(1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.
>
> '(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than $2,500.00, or both.'

In order to effectuate the legislative intent to limit the presence of such weapons in this state, a rifle or a shotgun which can be lengthened and shortened at will must also be considered as a weapon made from a rifle or a shotgun by alteration, modification, or otherwise when it is capable of being less than 26 inches in length by folding or contracting its stock.

It is noted that the UZI semiautomatic carbine rifle is a short-barreled rifle since it is capable of being contracted to an overall length of 24.4 inches and is fully operable in this condition. The Remington 870P shotgun has a barrel 18 inches in length and an overall length of 28.5 inches with the stock folded, and, therefore, it is not a short-barreled shotgun. The Universal Firearms #5000-PT semiautomatic carbine rifle has a barrel length of 18 inches and an overall lenght [sic] of 27 inches with the stock folded, and, thus, it is not a short-barreled rifle.

It is my opinion, in answer to your second question, that rifles and shotguns whose barrels are at least 16 and 18 inches in length, respectively, with folding and/or telescoping stocks, which are fully operable with stocks folded or contracted, and

whose lengths are less than 26 inches with stocks folded or contracted, fall within the definitions of 'short-barreled rifle' and 'short-barreled shotgun,' and their sale or possession is prohibited by MCL 750.224b; MSA 28.421(2).

Frank J. Kelley
Attorney General

Opinion No. 6406
December 10, 1986

CONCEALED WEAPONS:
FISH AND GAME:

License to carry handgun for hunting of deer
Deer hunting with handguns

The Legislature has provided that a hunter in possession of a valid Michigan hunting permit may carry a handgun for the purpose of hunting deer in region 3, but may not carry the handgun under a coat or otherwise concealed in order to protect the weapon from bad weather unless the hunter possesses a concealed weapons license.

If the hunter possesses a concealed weapons license which is restricted to hunting, the hunter may carry the weapon under a coat or otherwise concealed and protected from bad weather, but only while hunting and only when in possession of both a valid Michigan hunting license and a concealed weapons license.

A hunter possessing a valid Michigan hunting license may transport a handgun to or from the hunting area in region 3 in a motor vehicle, provided that the hunter is en route to or from the hunting area and the handgun is unloaded, is in a wrapper or container, and is locked in the trunk of the motor vehicle. If the vehicle has no trunk, the hunter may carry the unloaded handgun in a wrapper or container in an area of the motor vehicle not readily accessible to the occupants of the vehicle. In the event the hunter has obtained a concealed weapons license which is restricted to hunting, the hunter may likewise transport the handgun in the vehicle to and from the hunting area but is subject to these same restrictions.

Honorable Doug Carl
State Representative
The Capitol
Lansing, Michigan 48909

You have requested my opinion concerning the application of the statute prohibiting the carrying of concealed weapons, MCL 750.227; MSA 28.424, to hunters who intend to transport and carry handguns in order to hunt deer. Your question may be stated as follows:

> May a person, for the purpose of using a handgun to hunt deer: (1) transport an unloaded handgun to and from the hunting area in the trunk of a car or in the back of a truck, and (2) carry the handgun under a coat or otherwise concealed in order to protect it from bad weather?

Your question deals with two distinct groups of deer hunters: (1) those who do not possess a concealed weapons license, and (2) those who do possess a concealed weapons license where the license is restricted to hunting.

The Game Law of 1929, Sec. 10(1)(d); MCL 312.10(1)(d); MSA 13.1339(1)(d), has for many years prohibited hunters during the deer season in region 3 (essentially the southern portion of the lower peninsula) from utilizing any firearm other than "a shotgun, flintlock, or percussion cap muzzle-loading rifle .44 caliber or larger loaded with black powder and patched round ball." This provision was amended by 1985 PA 182, effective March 31, 1986, and now permits the use of muzzle-loading handguns as well as certain repeating pistols or revolvers during the deer season in region 3:

> "pursuant to safety regulations issued by the department of natural resources as to the allowable size and caliber of handguns to be used in region 3, skill level of the hunter using a handgun in region 3, and such other safety requirements as the department deems appropriate and relevant to region 3...."

On March 18, 1986, the Director of the Department of Natural Resources issued an order restricting the type of handguns which may be used in hunting deer in region 3 to the following:

> "Repeating centerfire pistol or revolver loaded with straight walled cartridges, .35 caliber or larger, with a maximum of 9 shot capacity of barrel and magazine, or a repeating black powder revolver .44 caliber or larger."

In addition, the order requires that:

> "Those born on or after January 1, 1960 must have in possession a certificate of successful completion of a hunter safety course issued by this state, another state, or another country."

By its express terms, MCL 312.10(1)(d); MSA 13.1339(1)(d), as amended, and as implemented by the March 18, 1986 director's order, merely removes the previous statutory prohibition on the use of handguns by hunters during the deer season in region 3, subject to the restrictions set forth in the statute and the director's order. The statute does not purport to exempt such hunters from complying with the various Michigan statutes which strictly control the purchase, transportation, and use of handguns within this state. It is a well established principle that where two or more separate statutes as are in pari materia, addressing essentially the same subject matter, those statutes must be read together and full effect must be given to each statute if such can be done without repugnancy, absurdity, or unreasonableness. *Rochester Community Schools Board of Education v State Board of Education*, 104 Mich App 569; 305 NW2d 541 (1981). It follows, therefore, that hunters intending to utilize handguns pursuant to MCL 312.10(1)(d); MSA 13.1339(1)(d), as amended, must strictly comply with the concealed weapons statute, MCL 750.227; MSA 28.424, and with the various other state statutes governing the purchase, use, and possession of handguns.

In MCL 750.227; MSA 28.424, as last amended by 1986 PA 8, the Legislature has provided in pertinent part:

> "(2) A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license.
>
> "(3) A person who violates this action is guilty of a felony, punishable by imprisonment for not more than 5 years, or by a fine of not more than $2,500.00."

The term "pistol", as used in this section, is defined in MCL 750.222; MSA 28.419, as follows:

> "(a) 'Pistol' means a firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm."

See also, MCL 28.421(a); MSA 28.91(a).

MCL 750.231a; MSA 28.428(1), provides certain limited exceptions to the prohibitions set forth in MCL 750.227; MSA 28.424, including the following:

> "(1) Section 227 [MCL 750.227; MSA 28.424] does not apply to any of the following:
>
> "....
>
> "(d) To a person while carrying a pistol unloaded in a wrapper or container in the trunk of the person's vehicle, while in possession of a valid Michigan hunting license or proof of valid membership in an organization having pistol shooting range facilities, and while en route to or from a hunting or target shooting area.
>
> "....
>
> "(f) To a person while carrying an unloaded pistol in the passenger compartment of a vehicle which does not have a trunk, if the person is otherwise complying with requirements of subdivision (d) ... and the wrapper or container is not readily accessible to the occupants of the vehicle."

MCL 750.227; MSA 28.424, was construed by the Court of Appeals in *People v Bailey*, 10 Mich App 636, 639, 640; 160 NW2d 380 (1968). The court commented as follows on the legislative intent of this provision:

> "The basic intent of the legislature as indicated in the concealed weapon statute was that weapons should not be carried where they might be used to take lives. Courts should look for a reasonable rather than tortured interpretations of statutes, or exceptions thereto, so as to reflect the intent of the legislature. *Sergeant v. Kennedy* (1958), 352 Mich 494."

The application of these provisions to hunters who have not obtained a concealed weapons license is considered first.

MCL 750.227(2); MSA 28.424(2), prohibits a person from carrying a pistol "concealed on or about his or her person ... without a license to carry the pistol as provided by law...." Thus, assuming a hunter has not obtained a license to carry a concealed weapon, he or she may carry the pistol while hunting only if the weapon is not concealed and is at all times kept in plain view. Carrying a pistol in a holster belt, in plain view on the outside of the hunter's clothing, is permissible, even without a concealed weapons license, and does not constitute the carrying of a concealed weapon. OAG, 1926-1928, p 349 (April 22, 1927); OAG, 1945-1946, No O-3158, p 237 (February 14, 1945). A hunter may not, however, carry a pistol under his or her coat or otherwise concealed from view unless he or she is in possession of a valid concealed weapons license, even though the sole motive for such concealment may be to protect the weapon from bad weather. To do so would constitute a violation of MCL 750.227(2); MSA 28.424(2), and would, thus, be punishable as a felony.

With respect to the transportation of the pistol in a motor vehicle, MCL 750.227(2); MSA 28.424(2), prohibits a person from carrying a pistol "whether concealed or otherwise, in a vehicle operated or occupied by the person ... without a license to carry the pistol as provided by law...." However, as is noted above, MCL 750.231a(1)(d) and (f); MSA 28.428(1)(1)(d) and (f), creates a limited exception to this prohibition, permitting a person to transport a pistol in a vehicle without first

obtaining a concealed weapons license provided that: (1) the pistol is unloaded, is in a wrapper or container, and is locked in the trunk of the vehicle or, if the vehicle has no trunk, the wrapper or container is not readily accessible to the occupants of the vehicle; and (2) the person is in possession of a valid Michigan hunting license; and (3) the person is en route to or from a hunting area.

This limited exception is consistent with the Hunting and Fishing License Act, Sec. 205; MCL 316.205; MSA 13.1350(205), which provides:

> "A person may carry, transport, or possess a firearm or a bow and arrow without a hunting license while at or going to and from a recognized rifle or target range, trap or skeet shooting ground, or archer range if the firearm or bow and arrow, while being carried or transported, is enclosed and securely fastened in a case or locked in a trunk of a motor vehicle." *(Emphasis supplied.)*

Thus, a hunter who does not possess a concealed weapons license (1) may carry a handgun while hunting deer provided that the handgun is not concealed and is kept in plain view at all times, and (2) may transport the handgun in a motor vehicle provided that (a) the weapon is unloaded, in a wrapper or container, and is locked in the trunk or is otherwise not readily accessible to the occupants of the vehicle, (b) the hunter is in possession of a valid Michigan hunting license, and (c) the hunter is en route to or from a hunting area.

You have also inquired as to the application of the concealed weapons laws to deer hunters who have obtained a concealed weapons license where the license is restricted to hunting.

The issuance of a license to carry a concealed weapon is governed by MCL 28.421 *et seq*; MSA 28.91 *et seq*. MCL 28.426(1); MSA 28.93(1), provides, in pertinent part:

> "The prosecuting attorney, the sheriff, and the director of the department of state police, or their respective authorized deputies, shall constitute boards exclusively authorized to issue a license to an applicant residing within their respective counties, to carry a pistol concealed on the person and to carry a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the applicant.... A license shall not be issued unless it appears that the applicant has good reason to fear injury to his or her person or property, or has other proper reasons, and is a suitable person to be licensed."

A person seeking a concealed weapons license solely for the purpose of hunting would not ordinarily have "good reason to fear injury to his or her person or property." Nevertheless, it is within the discretion of a county concealed weapons licensing board to conclude that hunting falls within the statutory language of "other proper reasons" and to issue a permit restricted to such a purpose. 2 OAG, 1956, No 2648, p 480 (August 15, 1956). This restriction is significant. MCL 28.426(5); MSA 28.93(5), provides:

> "The application for a license shall state the reason or reasons for the necessity or desirability of carrying a pistol concealed on the person or a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the person applying for the license, and the license, if issued, shall be restricted to the reason or reasons satisfactory to the board, which restriction or restrictions shall appear on the face of the license in a conspicuous place. The license shall be an authorization to carry a pistol in compliance with this section only to the extent contained in the face of the license and the license shall be revoked by the board if the pistol is carried contrary to the authorization." *(Emphasis added.)*

MCL 750.227(2); MSA 28.424(2), moreover, makes it a felony for a person, even if licensed to carry a concealed weapon, to "carry the pistol in a place or manner inconsistent with any restrictions upon such license."

As is observed above, a hunter who does not possess a concealed weapons license is prohibited from carrying a pistol under his or her coat or concealed in any manner even though the purpose of such concealment may merely be to protect the weapon from bad weather. If the hunter does possess a concealed weapons license, albeit one restricted to hunting, the converse is true: the hunter may carry the handgun concealed on his or her person while actually hunting in order to protect the weapon from the elements. It must be emphasized that a hunter may carry a handgun concealed under his or her coat or hunting jacket in such a fashion only while actually hunting and at no other time and, further, must be in possession of both a valid hunting license and a concealed weapons license. A hunter carrying a pistol concealed on or about his or her person at a time other than while hunting plainly would be carrying that weapon "in a place or manner inconsistent with" the restrictions limiting the license to hunting and would, therefore, be in violation of MCL 750.227(2); MSA 28.424(2).

For similar reasons, it must be concluded that possession of a concealed weapons license restricted to hunting does not authorize a hunter to transport a handgun which is loaded or which is unwrapped or uncased in the passenger compartment of a motor vehicle. To do so would clearly be inconsistent with the restrictions placed upon the license.

The Game Law of 1929, MCL 312.10(1); MSA 13.1339(1), in pertinent part, provides:

> "Unless otherwise specified, a person shall not do any of the following:

> "(f) Hunt, pursue, worry or kill wild waterfowl or other birds or animals by any means whatever when the person is in or upon any kind of aircraft, automobile, floating device, or other contrivance propelled by, or using as motive power, steam, gas, naphtha, oil, gasoline, or electricity, or when the person is in or upon a sailboat."

An exception is made to this prohibition for parapalegics, amputees or other permanently disabled persons who are unable to walk, provided that these individuals have obtained a special permit. MCL 312.10(5) MSA 13.1339(5).

Inasmuch as MCL 312.10(1)(f); MSA 13.1339(1)(f), generally makes it illegal to hunt from a car, there is no rational justification for concluding that transportation of a loaded, accessible weapon in a motor vehicle is consistent with a concealed weapons license restricted to hunting.

The Legislature has, in MCL 750.231a; MSA 28.428(1), expressly provided for the conditions under which a hunter may transport a handgun in a motor vehicle to a hunting area and has clearly evinced its intent that the transportation of a handgun for the purpose of hunting must be subject to the strict conditions imposed therein. It follows, therefore, that even if a hunter possesses a concealed weapons license restricted to hunting, he or she may lawfully transport a handgun to and from a hunting area in a motor vehicle only in strict compliance with the requirements of MCL 750.231a(1)(d) or (f); MSA 28.428(1)(1)(d) or (f).

It is further noted that, the Director of the Department of Natural Resources has required those hunters born on or after January 1, 1960 to have in their possession a certification of successful completion of a hunter safety course in order to use a handgun for hunting deer in region 3. Hunters planning to use handguns for hunting deer are also reminded that they must secure a license to purchase a pistol, MCL 28.422(1); MSA 28.92, and the pistol must be safety inspected by a local law enforcement official. MCL 28.429; MSA 28.97. Failure to abide by these provisions is a crime. MCL 750.232a; MSA 24.429(1), and MCL 750.228; MSA 28.425.

Based on the foregoing, it is my opinion that the Legislature, in permitting a hunter to carry a handgun for the purpose of hunting deer, also provided that a hunter may not carry that handgun under a coat or otherwise concealed in order to protect the weapon from bad weather unless the hunter possesses a concealed weapons license. It is my further opinion that, if the hunter possesses a concealed weapons license which is restricted to hunting, the hunter may carry the weapon under a coat or otherwise concealed and protected from bad weather, but only while hunting and only when in possession of both a valid Michigan hunting license and a concealed weapons license.

It is my further opinion that a hunter possessing a valid Michigan hunting license may transport a handgun to and from the hunting area in region 3 in a motor vehicle, but only if the hunter is en route to or from the hunting area and the handgun is unloaded, is in a wrapper or container, and is locked in the trunk of the vehicle. If the vehicle has no trunk, the hunter may carry the unloaded handgun in a wrapper or container in an area of the motor vehicle not readily accessible to the occupants of the vehicle. If the hunter has obtained a concealed weapons license which is restricted to hunting, the hunter may likewise transport the handgun in the vehicle but is subject to these same restrictions.

Frank J. Kelley
Attorney General

Opinion No. 6798
May 16, 1994

CONCEALED WEAPON LICENSE:
Michigan resident with a concealed weapon license acquired from another state
A Michigan resident may not carry a concealed pistol in Michigan if the resident has only acquired a license to carry a concealed pistol from another state.

Honorable David Jaye
State Representative
The Capitol
Lansing, MI

You have asked whether a Michigan resident may carry a concealed pistol in Michigan if the resident has only acquired a license to carry a concealed pistol from another state.

MCL 28.432a; MSA 28.98(1), provides:

> Section 6 [requiring a concealed weapon license to carry a concealed pistol] does not apply to:
>
> (f) A person licensed to carry a pistol concealed upon his or her person issued by another state.

Similarly, MCL 750.231a; MSA 28.428(1), states:

> (1) Section 227 [prohibiting carrying a concealed pistol without a license] does not apply to any of the following:

> (a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by another state except where the pistol is carried in non-conformance with a restriction appearing on the license.

The above-quoted statutory provisions clearly apply to a resident of another state that obtains a license to carry a concealed pistol in that state and then comes into the State of Michigan. The question is whether the exemption is also applicable to a Michigan resident that obtains a license to carry a concealed pistol from another state and, on that basis, claims an exemption from the requirements of Michigan's concealed weapon laws.

In section 6 of 1927 PA 372, MCL 28.426; MSA 28.93, the Legislature has established a comprehensive procedure for determining whether a Michigan resident should be issued a license to carry a pistol concealed on the person or in a vehicle operated or occupied by the applicant. Subsection (1) of section 6 provides:

> The prosecuting attorney, the sheriff, and the director of the department of state police, or their respective authorized deputies, shall constitute boards exclusively authorized to issue a license to an applicant residing within their respective counties, to carry a pistol concealed on the person and to carry a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the applicant. The county clerk of each county shall be clerk of the licensing board, which board shall be known as the concealed weapon licensing board. A license to carry a pistol concealed on the person or to carry a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the person applying for the license, shall not be granted to a person unless the person is 18 years of age or older, is a citizen of the United States, and has resided in this state 6 months or more. A license shall not be issued unless it appears that the applicant has good reason to fear injury to his or her person or property, or has other proper reasons, and is a suitable person to be licensed. A license shall not be issued to a person who was convicted of a felony or confined for a felony conviction in this state or elsewhere during the 8-year period immediately preceding the date of the application or was adjudged insane unless the person was restored to sanity and so declared by court order. *[Emphasis added.]*

Subsection (4) requires fingerprinting the applicant and sending the fingerprints to the Michigan Department of State Police and the Federal Bureau of Investigation to ascertain whether there has been a felony conviction or confinement for a felony conviction within the 8-year period. Subsection (5) provides that the concealed pistol license may be restricted, on the face of the license, consistent with the reasons the license was issued. Under subsection (6), a concealed pistol license may not be issued for more than three years and a renewal may not be granted unless a new application is filed.

Michigan's appellate courts have consistently recognized that the Legislature has imposed comprehensive requirements an applicant must meet to obtain a concealed pistol license from a county gun board. In *People v McFadden*, 31 MichApp 512, 516; 188 NW2d 141 (1971), the court stated:

> Pursuant to constitutional requirements, the statute enumerates explicit criteria to guide the concealed weapon licensing board in processing applications. Thus, any suggestion that absence of standards creates a potential for arbitrary action lacks merit.

Subsequently, in *Hanselman v Wayne County Weapon Bd*, 419 Mich 168, 189; 351 NW2d 544 (1984), the Supreme Court declared:

> Each concealed weapon licensing board must determine "proper reason" and "suitability" based upon consideration of local needs and an exercise of its discretion. As the Court of Appeals recognized in *Bay County Concealed Weapons Licensing Board v Gasta*, 96 MichApp 784, 789-791; 293 NW2d 707 (1980), the Legislature intends the concealed weapon licensing boards to apply local and discretionary standards in deciding whether to grant an applicant a concealed weapon license:
>
> "The licensing board is comprised of one representative each from the County Prosecutor's Office, the State Police, and the County Sheriff's Department. By creating a board composed of law enforcement officials and giving it the exclusive authority to issue, deny and revoke permits for concealed weapons, the Legislature has insured that an individual's perceived need to carry a concealed weapon will be evaluated in light of the experience and knowledge of community needs possessed by these local officials. The potential danger which a concealed weapon poses to the unsuspecting public justifies that licensing procedures be entrusted to a board comprised of law enforcement officials.
>
> "In view of the inherent potential danger which accompanies the issuance of a permit to carry a concealed weapon, the licensing board as composed reflects the Legislature's intent that power to issue and revoke such [concealed weapon] licenses is properly placed with those professionals most able to assess community needs and problems in this area." *[Emphasis added.]*

There are many rules for interpreting statutes. The ultimate goal of all such rules is to ascertain and implement the legislative intent, even if the intent might appear in conflict with the literal language of the statute. *People v Stoudemire*, 429 Mich 262, 266; 414 NW2d 693 (1987). Also, statutes must be interpreted to avoid absurd consequences. *Webster v Rotary Electric Steel Co*, 321 Mich 526, 531; 33 NW2d 69 (1948).

Here, the Legislature has created local gun boards with the exclusive authority to issue concealed pistol licenses. The Legislature has imposed specific statutory requirements applicants must meet to obtain these licenses. In addition, whether applicants have good reasons and are suitable persons to be licensed is within the sound discretion of a board of local professionals who apply their knowledge of community needs and problems in evaluating applications. It is inconceivable that the Legislature, after crafting these statutory requirements for obtaining a concealed pistol license, intended to permit Michigan residents to avoid them by obtaining a concealed pistol license in another state that may not impose many of the Michigan requirements. That construction of the statute would result in the absurd consequence that a Michigan resident could avoid the legislatively imposed requirements for obtaining a concealed pistol license in Michigan by obtaining that type of license in another state without having to meet the Michigan requirements. Thus, it must be concluded that a Michigan resident with a concealed pistol license obtained in another state may not carry a concealed pistol in Michigan unless the resident first obtains a concealed pistol license in Michigan by meeting the requirements for obtaining the license imposed by Michigan law.

It is my opinion, therefore, that a Michigan resident may not carry a concealed pistol in Michigan if the resident has only acquired a license to carry a concealed pistol from another state.

Frank J. Kelley
Attorney General

MICHIGAN ADMINISTRATIVE RULES
Rules Regulating Firearms — Catchlines

AGRICULTURE

R 285.146.1 Humane slaughter methods.
R 291.208 Possession of firearms or other dangerous weapons.
R 431.1175 Prohibited acts; breathalyzer and drug testing.

COMMUNITY HEALTH

R 330.9416 Items prohibited on department property; inspections; retention of prohibited items.

CONSUMER AND INDUSTRY SERVICES

R 400.10167 Emergency procedures; firearms.
R 400.14309 Crisis intervention.
R 400.15309 Crisis intervention.
R 436.1011 Prohibited conduct of licensees, agents, or employees.

CORRECTIONS

R 791.702 Firearms; training.
R 791.707 Firearms.
R 791.4410 Community status; eligibility criteria; procedures.
R 791.5513 Forfeiture of good time and disciplinary credit.
R 791.5515 Addition and reduction of disciplinary time.
R 791.7716 Parole guidelines; factors; departure; appeal.
R 791.7735 Search of parolee's person or property.

ENVIRONMENTAL QUALITY

R 325.5902 Definitions; M to O.

NATURAL RESOURCES

R 281.3121 Visual distress signals.
R 299.61 Hunting and dog training hours.
R 299.325 Firearms and hunting; prohibited acts.
R 299.672 Designated shooting ranges on state-owned lands; unlawful acts.
R 299.673 Use of firearms on designated shooting ranges.
R 299.673a Use of muzzle-loading firearms.
R 318.143 Camping and hunting.

STATE POLICE

R 28.2039 Operation on roadway prohibited; exceptions.
R 28.4156 Competence and performance examinations.
R 28.4362 Utilization and publication of law enforcement firearms assessment criteria required.
R 28.4363 Requirements for sucessful completion of the course of study; effective date of subrule (2)(c).

TREASURY

R 432.1212 Weapons in casino.
R 432.11103 Complaint.

SUPREME COURT ADMINISTRATIVE ORDERS

March 27, 2001
Administrative Order 2001-1

SECURITY POLICIES FOR COURT FACILITIES

It appearing that the orderly administration of justice would be best served by prompt action, the following order is given immediate effect. The Court invites public comment regarding the merits of the order. Comments may be submitted in writing or electronically to the Supreme Court Clerk by [June 1, 2001]. P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@jud.state.mi.us. When submitting a comment, please refer to File No. 01-15.

This matter will be considered by the Court at a public hearing to be held June 14, 2001, in Kalamazoo. Persons interested in addressing this issue at the hearing should notify the Clerk by [June 12, 2001]. Further information about the hearing will be posted on the Court's website, www.supremecourt.state.mi.us. When requesting time to speak at the hearing, please refer to File No. 01-15.

The issue of courthouse safety is important not only to the judicial employees of this state, but also to all those who are summoned to Michigan courtrooms or who visit for professional or personal reasons. Accordingly, the Supreme Court today issues the following declaration regarding the presence of weapons in court facilities.

It is ordered that weapons are not permitted in any courtroom, office, or other space used for official court business or by judicial employees unless the chief judge or other person designated by the chief judge has given prior approval consistent with the court's written policy.

Each court is directed to submit a written policy conforming with this order to the State Court Administrator for approval, as soon as is practicable. In developing a policy, courts are encouraged to collaborate with other entities in shared facilities and, where appropriate, to work with local funding units. Such a policy may be part of a general security program or it may be a separate plan.

May 25, 2001
01-15
Administrative Order 2001-3

SECURITY POLICY FOR THE MICHIGAN SUPREME COURT

Effective immediately, in accordance with Article 6, sections 1, 4, and 5 of the Michigan Constitution, and Administrative Order 2001-1, the following policy is adopted for the Supreme Court.

IT IS ORDERED THAT

1. No weapons are allowed in the courtroom of the Supreme Court or in other facilities used for official business of the Court. This prohibition does not apply to security personnel of the Court in the performance of their official duties, or to law enforcement officers in the performance of their official duties, if the officer is in uniform (or otherwise properly identified) and is not a party to a matter then before the Court. The Chief Justice may authorize additional exceptions under appropriate circumstances.
2. All persons and objects are subject to screening by Court security personnel, for the purpose of keeping weapons from entering Court facilities.
3. Notice shall be posted that "No weapons are permitted in this Court facility."
4. Persons in violation of this order may be held in contempt of court.